THE INVISIBLE OFFICE

Reflections on Corruption in Public Life

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Publisher
Gyanu Regmi
242/64 Prayag Marg, Shantinagar
Kathmandu Metropolitan City-34
Tel: 977-1-4467471

First published June 2003 (1,000)

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Printed in Nepal at Manasalu Printing Press
Tel: 977-1422253434

ISBN: 99933-57-33-2

To the new generation who will have to make our offices **visible**, very soon

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Preface

'Alright folks, have a pleasant journey!' my friend's father waved goodbye to us. I said *namaskar* to him and to other kind members of his family. *'Taki, taki,*' said the driver and the cart started off to disappear into the darkness.

When I joined the civil service in the mid 1980s, my first assignment was promoting co-operatives in Bardiya. We had just concluded a three-day co-operative education camp at Motipur. While cycling back to Gulariya, we were intercepted by this friend of mine and I was forced to stay behind.

The co-operative education camp seemed to be successful in that the participants had committed themselves to an action

plan. Speakers at the closing function had also said nice words about us. At the same time, there was something disappointing for us.

During a tea break early in the day, I happened to overhear snatches of conversation from the backyard of the co-operative warehouse, part of which was being used as our training hall. A lady said that the best thing about the programme was refreshments. 'Yes, but we don't know how much money they have made out of all this,' another lady muttered in a moment.

Actually, we had invited a chef from Balaingaon, a small bazaar across the border in India. The gentleman prepared everything on the spot and just in time. The good thing about training in those days was that they gave you little money as an incentive for teaching the class. But since the actual costs of refreshments calculated in Gulariya were adding up beyond the estimated costs approved in Kathmandu, we had agreed that, except for the external resource persons, those of us who taught the class would simply sign the receipt, leaving the money to cover the deficit. That, we thought, was the co-operative spirit.

We were three of us – myself, my friend and a friend of this friend of mine – travelling together. With bags, blankets and other things carefully placed over a thick layer of hay, each of us could stretch out in comfort. Meanwhile, we were being joined by other carts as well. We did not know their passengers. Nor did they know us. But we all shared our destiny off the scary woods.

My friends were already asleep. I noticed that the driver, too, was stealing quick naps by entrusting the two buffaloes to keep the cart going under the rising moon. The animals co-ordinated their motions by themselves. They had also learnt to stop at crossroads or whenever there was a problem. As soon as they did, mosquitoes swarmed over us, so that everybody could come back to life and the driver could find out the problem, fix it up and point up the way forward.

'Yes, but we don't know … .' I was recalling the lady's remark every so often. Now that I was 'alone' and could also

rest assured that the cart was on course, I was pondering the same.

I was aware that corruption was a problem in our civil service. But was it so pervasive that civil servants were all alike in the eyes of the people? I was told that there was a lack of popular trust in our government. But did the problem assume such proportions that the people trusted nobody? They were saying that I was being trained for a change agent. But could I change things around there if nobody trusted me?

Exploratory as it was, my research into corruption had actually begun with those questions.

The first time I passed through Bardiya since I left there later was when we were travelling back from Mahendranager. At that time, the Kohalpur-Banbasa road was being constructed and we were coming by bus. By then, my exploration had also led me to construct a few 'hypotheses'.

By far the most important finding so far was that there was no dearth of straightforward people in our public sector. There were many – surprisingly more than the popular image of our public sector would suggest – fully competent, extremely honest and exceptionally hard-working people.

'An overnight journey by cart!' my colleague expressed his surprise. That was years later and for the second time that I passed through Bardiya. They had already put up a wonderful bridge across the Karnali River and our jeep was bound for Dipayal-Silgari. By then, I had also had opportunities to work at various levels, assume different roles, study more cases, observe many variables at work and get the feel of the problem inside our government.

One after another my findings were consistent. They were pointing up to the same conclusion. Corruption existed everywhere; it did not exist in isolation. Therefore, it could not be controlled in isolation. We needed to fight corruption on all fronts. More important, we needed to do so positively – by reinstating trust and by minimising any 'collateral damage' on performance. And I was already thinking of doing a book.

This is all about The Invisible Office. I hope that the reader will find the book worth reading and its ideas worth a try. Then, of course, I will also find it worth the effort I have put into it for so many days since we safely arrived at Gulariya at daybreak on that day.

Kathmandu
23 November 2002
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Acknowledgements

Late Basu Dev Shrestha was the first friend to find the idea of this book interesting. In all ways, he encouraged me to embark on this rather long journey. Now that I have made it not to find him around, I can only record my deeply-felt gratitude to him.

Five colleagues – Sita Ram Uprety, Rameshwor Prasad Khanal, Dr Hira Mani Ghimire, Purushottam Tiwari and Ram Prasad Bashyal – were kind to review an early draft of this book. The book would not have appeared in its present form without their sincere comments, helpful suggestions and many corrections. I am very grateful to this 'panel' of reviewers.

I am equally indebted to Laxmi Bilas Koirala for his exceptional co-operation. I do not think that I would have been able to complete this project were it not for all his help, especially with learning materials.

Similarly helpful was Mukunda Adhikari. I am thankful for his co-operation as well.

In the course of my writing, I have also benefited from a series of discussions that I made with a number of colleagues. To those already mentioned, I must add Tirtha Prasad Legal, Balananda Poudel, Surya Bahadur Thapa, Tej Bahadur Rai, Jeevan Bandhu Sewani, Bharat Kishor Bhattarai, Achut Misra, Babu Ram Adhikari (Palpa) and Babu Ram Adhikari (Bardiya). Many thanks are due to all of them.

Others helped otherwise. Gyanu and I take this opportunity to express our gratitude to Laxman Ghimire and Kalpana Ghimire for all types of support they have kindly extended to us. We are also grateful to Bishnu Atreya for his encouragement. And we thank Pawan Ghimire for the trouble he has taken in helping us with our computer and all.

There are many other names as well – Ambika Niraula, Amrit Karmacharya, Amrit Maharjan, Bhushan Narshing Pradhan, Hara Bhattarai, Iswor Atreya, Jaya Prakash Mandal, K P Naresh, Krishna Raj BC, Nama Raj Budathoki, Narayan Marasini, Naresh Regmi, Nirmal Atreya, Sher Jung Karki, Shyam Prasad Banskota, Shyam Prasad Ghimire, Tika Ram Ghimire and Upendra Adhikari, to cut the list short. Their ideas,

interest in the book and offer for help have been very encouraging for me. To them and all other well-wishers who have been equally helpful, I extend many thanks.

My father, Govind Prasad Upadhyaya, taught me discipline and my mother, Padma Kumari Regmi, taught me how to break through his order. As always, I am grateful to them for their *ashirbad*.

I owe my teachers a great deal. I express my gratitude to all those great men and women who enabled me to read, write and write a book.

I also acknowledge my debt to all writers, translators or editors on whose works I have drawn so profitably.

Finally, I thank Anuj and Gyanu for their co-operation.

Kathmandu
16 May 2003

Chapter 1
Understanding Corruption

Corruption is not unique to our place. From southern countries to northern countries and from oriental cultures to occidental cultures – corruption is all over.

Nor is corruption unique to our time. In Nepal Prithvinarayan Shah spoke about corruption as early as 1774. 'Those who give bribes and who take bribes … are the arch-enemies of the king,' said the great King in his *Dibya Upadesh*.[1] In Italy Niccolò Machiavelli wrote about corruption towards 1518/19. '… [I]t is vain to look for anything good from those countries which we see nowadays so corrupt …,' observed the Florentine diplomat in his Discourses.[2] In India Kautilya dwelt on corruption in the fourth century BC. Specifying 40 ways of embezzlement by the king's officials in his *Arthashastra*, the 'grand father' of modern administration said, 'It is possible to know even the path of birds flying in the sky, but not the ways of officers moving with their intentions concealed.'[3]

Also, there are those who have what M McMullan calls a 'sympathetic understanding'[4] of corruption. They suspect that 'corruption may not be inconsistent with development and at times may even foster it'.[5]

To Nathaniel H Leff, 'bureaucratic corruption also brings an element of competition, with its attendant pressure for efficiency, to an underdeveloped economy'.[6] Limiting his analysis to one type of corruption, ie 'the practice of buying favors from the bureaucrats responsible for formulating and administering the government's economic policies',[7] Leff argues that allocation of favours based mainly on competitive bribes requires entrepreneurs to be efficient in production, so that they are able to muster revenue to finance higher bribes.[8]

To J S Nye, 'corruption may provide the means of overcoming discrimination against members of a minority group'.[9] 'In East Africa, for instance, corruption may be prolonging the effective life of an important economic asset –

the Asian minority entrepreneur – beyond what political conditions would otherwise allow,' wrote Nye in 1967.[10]

Some consider *baksheesh* to be 'speed money', with which the giver 'does not wish … to get anything done unlawfully, but wants to speed up the process of the movement of files and communications relating to decisions'.[11] Others look upon nepotism and similar forms of corruption as 'expressions of traditional pre-colonial values and practices which serve both to reflect and strengthen social and political ties'.[12] Still others believe that all forms of corruption are simply 'an inseparable byproduct of modernization and development'.[13]

So, as the title of an article by Colin Leys reads, what is the problem about corruption?[14]

1.1 The case for concern

But then, there are at least three reasons for us to be worried about corruption.

(a) Corruption is really costing beyond corruption

When a young engineer learns to overestimate the costs of a water-supply and accept a kickback from the contractor, the loss to the country is not equal to what he gains. It is unimaginably high.

First, once the hitherto upright engineer accepts money, the contractor finds it easy to pass over quality requirements.

Second, with an amount of money several times his monthly salary, our talented engineer is likely to be busy merrymaking and fail to keep abreast of new innovations in construction technology.

Third, there is nothing free in life. Accompanying the free money that our engineer brings home is a sense of fear. This bold professional is now fearful of everybody – departmental supervisors, journalists, auditors – as well as being suspicious of the members of his own staff. Worse still, there is a sense of guilt. This enthusiastic, perhaps even sentimental, engineer had all along believed that taking such money is unfair, immoral and

means a violation of his professional code of conduct. Now that he has chosen to do so, he is under tremendous psychological pressure to overcome the sense of guilt. He will probably try to justify his decision on the grounds that his salary is so little to live on or by referring to the need for money for the treatment of the long-ailing mother or even by comparing his doing with, and finding it less serious than, what others are doing. Not surprisingly, if the auditor accepts her share of this money next year, our engineer will feel relieved very much. He will feel so not only because she will then tick everything in green, but also because she will provide yet another point of reference for him. 'What else I could do', he will console himself then, 'even the auditor is like this.' In such a situation he is bound to lose interest in his job. The joys of working in the rural area, the satisfaction over successfully trying out new ideas and the all-interesting process of learning by doing, until now so rewarding for this foreign-trained youngster, become less and less meaningful, making it inevitable for him to degenerate into a time-serving technician.

Fourth, unearned income is not easy to manage, either. Our amateurishly corrupt engineer will have to find a safe custodian for his money, prepare spurious papers authenticating the source of income to the extent possible and invest the money very carefully, perhaps by mixing it with lawful proceeds, eg borrowings from the Staff Provident Fund or loans from a finance company. However he does it, laundering black money takes a lot of time and effort which otherwise could have been devoted to his job, academic pursuits or professional advancement.

Fifth, corruption has unavoidable demonstration effects, too. The choice of this duty-bound man now, and unfortunately, provides a point of reference for his younger colleagues – encouraging the bad ones and discouraging the good ones.

So it goes. In sum, the country loses a very promising engineer – someone whose service is so urgently needed, someone who could be exemplary for others and someone the whole country could be proud of.

Likewise, when an agricultural extension worker is in the business of making money by hook or by crook, her distraction from duty puts many farmers' standing crops, their production plans and even the country's agriculture perspective plan in jeopardy.

The same is true of social workers and others, not to mention political leaders.

Call it speed money to cut through red tape or a speedy 'informal channel'[15] to supplement the deficiencies of the formal political process in an underdeveloped polity, or a means of improving allocative efficiency in an over-regulated economy, but corruption, in all its forms, has similar, if not the same, effects.

For instance, The London Times countered the speed-money argument long ago:

As a means of accelerating the sluggish, meandering circulation of a file within a department this might be all very well; but speed money, belying the name, actually has the effect of a brake on administration, slowing it down even further. Delay will deliberately be caused in order to invite payment of a bribe to accelerate it again.[16]

Nor could G Ben Dor find any integrative purpose served by the informal channel opened by corruption in Israel. Simcha B Werner summarises Dor's findings:

After Israel was established as an independent state, it absorbed immigrants from diverse cultures and countries. Corruption did not foster the integration of those

> immigrants into the political system. Instead, "opportunities" for corruption were selective. The mass of immigrants could not find the channels to the centers of influence.[17]

On the contrary, Andrei Shleifer and Robert W Vishny argued that the need for avoiding detection and punishment causes corruption to be 'more distortionary than taxation'.[18] The authors explain:

> On some goods, taking bribes without being detected is much easier than on others. Government officials will then use their powers to induce substitution into the goods on which bribes can be more easily collected without detection. For example, officials might ban some imports to induce substitution into others. Or they might prohibit entry of some firms to raise bribe revenue from existing monopolies. Historically, sovereigns used such mercantilist policies to increase tax collections because monopoly profits are easier to tax than income … . But such policies can also be used to increase bribes.[19]

Besides, Paolo Mauro's cross-country empirical analysis revealed that 'the negative association between corruption and investment, as well as growth, is significant in both a statistical and an economic sense'.[20] Mauro adds:

> For example, if Bangladesh were to improve the integrity and efficiency of its bureaucracy to the level of that of Uruguay (corresponding to a one-standard-deviation increase in the bureaucratic efficiency index), its investment rate would rise by almost five percentage points, and its yearly GDP growth rate would rise by over half a percentage point.[21]

(b) Impropriety is quietly prevailing over propriety

Think of a situation where you have served your country as a civil servant for 12-14 years with all sincerity. Having grown up in a lower middle class family at a far-off village and eroded much of what the family inherited in the course of your education and all, you have been dreaming of a small home of your own, in Kathmandu or elsewhere in a relatively better-served area, so that you can live there with your growing children, ailing spouse and ageing parents, and do something of economic value to eke out your little pension during the post-retirement period. Naturally, this dream of yours is shared by all members of your family.

But every time you add up all you have – the thin balance in your bank account, the 'leftover' in your provident fund, the few dollars you were able to save while doing a training course abroad, the pawn-value of your or your spouse's ornaments as well as the hundreds and the fifties under your pillow – you find that you are short of money to buy a piece of land, let alone build something thereon. For years, the problem has been the same: You save a bit more, the price of land goes a bit up.

In the meantime, one after another, your colleagues, even junior ones, have constructed their own homes, each of which looks like your stolen dream. How long will you survive as a sincere civil servant?

Assuming that you prefer the plight of the homeless to the comfort offered by devious means, as many of our civil servants do, think of the following:

- Your exceptional hard work has earned you the best possible score on your performance rating. You are thankful to your supervisor and also think that this is something you can take pride in. But the following day, you come to know that one other colleague of yours who has just moved in has also enjoyed the same rating as you. How long will you survive as a hard-worker?

- They announce that they will promote qualified candidates. You become hopeful of your career prospects.

Months later, the final list of 'promotees' appears on the papers. Your name is not there on the list. Once again, many of the lucky ones turn out to be those who have also housed themselves comfortably. How long will you survive as an aspiring candidate?

- Your chief executive selects you for secondment somewhere. You look forward to the opportunities that may unfold before you. Very soon, your curriculum vitae is rejected. But even before that you come to know that there were many who had questioned your ability to undertake such an assignment in the first place. How long will you survive as a self-confident professional?

Those were all real instances. We can find plenty of such cases in other walks of life as well. The following are three imaginary examples which do not look imaginary at all:

- A genuine party worker gets the ticket for standing on an election and loses the election. Next time, the party turns the ticket over to a pseudo-entrant and he wins the election.

- A sincere lecturer considers it ridiculous to dictate her lecture to the class; she always tries hard to help students understand the basic points of her lecture, so that they can achieve mastery of the subject. Her colleague dictates every word, cracks futile jokes in the class and is also popular among students.

- Your club is playing fair football. The other team have three or four yellow cards to their account. Yet they score once, start wasting time for the remaining 10-15 minutes and win the game.

Foul-players are everywhere in our organisations and in our society. While fair-players are seldom punished directly (Box 1), they are often equalled or even left behind by foul-players.

With a private life constrained by financial hardship and a public life marred by professional humiliation, it is extremely difficult for a dutiful person to survive either physically (in terms of good health) or psychologically (in terms of great hopes). This looks like a disrupted eco-system where upstanding people are 'endangered species'. I know of many civil servants who, having sustained such realities for 12, 14 or 20 years, have finally given in. I also know of many such politicians, social workers and others.

Every year, we are losing a number of people in this way. If this tendency persists, it will not be long before the 'population' of sincere men and women is reduced to a small minority.

In 1963, following their study of corruption in contemporary West Africa, Ronald Wraith and Edgar Simpkins said, 'In Africa corruption flourishes as luxuriously as the bush and the weeds it so much resembles, taking the goodness from the soil and suffocating the growth of plants which have been carefully and expensively bred and tended.'[22]

Wraith and Simpkins saw it in Africa. We have been seeing it in Asia. Wherever corruption flourishes, it flourishes in the same manner.

Devendra Raj Panday indicates how corruption has overrun the process of our development when he writes:

> It [development] has failed not only because we did not achieve what we set out to do. It has failed also, and more importantly, because the idea and agents of development themselves may have been corrupted in the process.[23]

(c) Society is apparently tolerating corruption

While corruption exists from Nepal to the Netherlands, its intensity varies in the two kingdoms. For instance, on the -2.50 to 2.50 graft index of the World Bank, with a higher figure

indicating a lower level of corruption, Nepal ranks far lower (-0.31) than the Netherlands (2.09) as of 2000-1.[24]

Corruption has also varied in a society over a period of time. 'Great Britain, Holland, and the Scandinavian countries, where corruption is now quite limited, were all rife with it two hundred years ago and even later…,' wrote Gunnar Myrdal in the 1960s.[25]

There has been a change for the worse as well. For instance, … the Netherlands Indies was practically free of corruption in colonial times…;[26] but in present-day Indonesia corruption seems to be as much a fact of life as in any … South Asian country.[27]

The variation in corruption over space and time indicates that societies differ in their sanctions against corruption and that social tolerance of corruption can be high or low at a given point of time in the history of a society.

When viewed in this light, our society today appears to have been at a stage where corruption is widespread and widely tolerated. Corruption is the rule rather than the exception and getting rich by doubtful means is more like a feat than a shame. No longer are corrupt people identified as such in the neighbourhood. Indeed, our neighbourhoods are given such new names as *Sidiotola*, *Hakimchok* and *Sabhapatichok*, even though there may be nothing in the name.

Society cannot condone corruption without blurring the lines between good and bad, right and wrong and do's and don'ts. The ultimate effect of this is the erosion of social capital. Social capital, 'the informal rules, norms, and long-term relationships that facilitate coordinated action and enable people to undertake cooperative ventures for mutual advantage,'[28] provides the basis for social organisation.

If, as Gerry Stoker writes, 'the essence of governance is its focus on governing mechanisms which do not rest on recourse to the authority and sanctions of government',[29]social capital also forms the governing capital of a State.

With regular loss of social capital, society becomes increasingly oriented towards formal rules, contractual

compliance and casual relationships, leading to ineffectiveness of governance as well as impoverishment of neighbourhoods.

Corruption does a great disservice to society. Ancient thinkers knew it. Many of the early writers of our time who are now dubbed ‘moralists' also condemned corruption.

At the same time, especially during the 1960s, some scholars surprisingly took a positive view of what was almost a taboo subject for others. Apparently these 'functionalists' were disappointed with the bureaucratic inertia in underdeveloped polities. If the bureaucracy there was a 'lagging sector',[30] 'bureaucratic redirection through dishonesty and graft'[31] was arguably desirable.

In the 1970s, others rose to the occasion. These ‘post-functionalists’ pointed out 'the reckless generalizations and intellectual inconsistencies of the functionalists'.[32]

Over the years, with additional research and reasoning, the 'cost' of corruption is being more and more illuminated, while the 'benefits' Nye saw alongside in 1967 are appearing to be more and more illusory.

By now, there is little doubt that, if countries, such as some East Asian ones, which experienced a relatively high level of corruption could also achieve an attractive rate of economic growth, they did so in spite of rather than because of corruption.

Moreover, World Development Report 1997 observes:

> Countries that have so far achieved high rates of economic growth despite serious corruption may find themselves paying a higher price in the future. Tolerating corruption that siphons off payments of, say, 10 percent on average may generate pressures to increase the take to 15 or 20 percent. Corruption feeds on itself, creating a widening spiral of illegal payoffs until ultimately development is undermined and years of progress are reversed. And the very growth that permitted corruption in the past can produce a shift from productive activities to an unproductive struggle for the spoils.[33]

Box 1: The Price of Integrity

What is the price one has to pay for one's integrity? We hear of a sincere civil servant being sacked by his corrupt superior. We watch a television serial where a genuine trade union leader is dragged along the street with a garland of shoes round his neck by his fellow workers who are misguided by a management-hired perpetrator. More frequently, when we go to the cinema, we see a dutiful police inspector being handcuffed and locked into gaol as instructed by a wicked minister.

All these represent extreme cases, however. They are not common in real-life situations. Rarely is honesty punished directly by way of atrocities. What is common is that sincere people are ignored, by-passed or avoided in one way or other. A corrupt minister, unless he is very wicked, does not dismiss a dutiful police inspector. He transfers the police inspector to a place where the police inspector's 'dutifulness' does not run counter to his interests. He may even find a pretext for his decision to that effect.

Thus the view that you have to obey your minister's secret instructions or else quit your job is erroneous. In fact, those who often say so are your minister's dishonest aides and all such people down the line. Their intention is

clear: They all want to wash their hands in the flowing river. As a general rule integrity does not cost you your job, let alone your being handcuffed or insulted publicly. Our problem is not that honest people are punished; rather, it is that honest people are not encouraged. You are put aside, avoided or by-passed not because they want to punish you but because they are afraid of you.

Moreover, those who favour the unscrupulous are the unscrupulous themselves. Why should you worry if the bad guy up there does not appreciate your efforts frankly? There are many to do so - some of your peers, some of your superiors, some of your subordinates, some of your friends and, above all, all the poor people out there. Besides, you never know, next may come a straightforward person up there and, very soon, down to your floor to quietly pat you on your back.

So, if you choose to stay clean of your own volition, you can – provided that you do not care for the material comfort. And stay clean you should – all my young friends!

1.2 The problem in definition

Corruption is an elusive concept. The difficulty in defining corruption arises partly out of the difficulty in delimiting it and partly out of the difficulty in capturing its essential meaning.

Nye says:

> Corruption is behavior which deviates from the formal duties of a public role because of private-regarding (personal, close family, private clique) pecuniary or status gains; or violates rules against the exercise of certain types of private-regarding influence.[34]

This and almost all other objective definitions of corruption can be put into one or other of the three

classifications of A J Heidenheimer: public-office-centred, market-centred and public-interest-centred.[35]

A public-office-centred definition gives an 'official meaning' to corruption. According to this view, one's corrupt act is necessarily different from one's dutiful act. Nye's is typical of such definitions.

The focus of a market-centred definition is on 'exchange' effected by a public official in the course of his official business. By extension, a public official can fail to comply with an official rule but unless he has traded non-compliance, he is not corrupt. According to Heidenheimer, Van Klaveren's definition is an example of this type:

> A corrupt civil servant regards his public office as a business, the income of which he will … seek to maximize. The office then becomes a 'maximizing unit'. The size of his income depends … upon the market situation and his talents for finding the point of maximal gain on the public's demand curve.[36]

Similarly, according to a public-interest-centred definition, corruption means causing harm to the general public. This also means that a public official is not corrupt so long as he is acting in the interests of the general public. Michael Johnston offers C J Friedrich's definition as an example of this view:

> The pattern of corruption can be said to exist whenever a powerholder who is charged with doing certain things, i.e., who is a responsible functionary or officeholder, is by monetary or other rewards not legally provided for, induced to take actions which favor whoever provides the rewards and thereby does damage to the public and its interests.[37]

Corruption has ethical and economic dimensions (Box 3). As well as public-sector corruption, we have private-sector corruption (Box 5). In any case, corruption needs to be distinguished from crime, or considered as a special case of crime (Box 2).

For the purposes of our analysis, corruption may be defined as a betrayal of organisational trust. More specifically, corruption means a betrayal of trust by a member of an organisation, out of which he gains, economically or otherwise, at the cost of his organisation or that of its client or any other stakeholder.

This definition would probably come under Heidenheimer's public-office-centred heading. The line of reasoning here is also similar to the principal-agent-client approach to analysis.

The principal may be a person or an entity such as an organization or public.[38] The agent is a person who has accepted an obligation (as in an employment contract) to act on behalf of his principal in some range of matters and, in doing so, to serve the principal's interest as if it were his own.[39] The client is 'the private individual with whom the agent interacts'.[40]

According to Robert E Klitgaard, 'this approach defines corruption in terms of the divergence between the principal's or the public's interests and those of the agent or civil servant: corruption occurs when an agent betrays the principal's interest in pursuit of her own'.[41]

By defining corruption in organisational terms, ie as a betrayal of organisational trust, we can focus on the behaviour of a member of an organisation, while recognising the fact that an organisation has many stakeholders. Accordingly, a member of an organisation can be corrupt not only by cheating his principal, but also by cheating any other stakeholder of the organisation, eg a colleague. It is also conceivable (eg in the case of a proprietary business) that, even though the 'principal' is corrupt (eg evades taxes), his 'agents' are

clean. More important, we can take it for granted that an organisation is always pursuing socially desirable goals (Box 6).

Box 2: Crime and Corruption

Corruption is not the same as crime. This does not mean, however, that corruption is a misdemeanour or an act *malum prohibitum*. This only means that corruption needs to be distinguished from crime, or considered as a special case of crime. There are many reasons why.

First, an act of corruption is usually less discernible than an act of crime. If one picks your pocket, it is not difficult to say that one is a pickpocket. But if a teller is short of Rs 1,000 by the end of the banking hours, it is not easy to say whether she overpaid one of her clients during the day or slipped it into her purse. Likewise, if a chief district officer acquires a fake certificate of academic records, he is clearly involved in forgery. But if the same chief district officer issues a citizenship certificate to a foreign national, he can do so on purpose or by mistake.

The following are some other gray areas:

- **A breach of procedure**: Corruption frequently involves a breach of procedure for some invented reason (eg a project manager issues a seven-day notice, instead of a 15-day notice, inviting bids for supplying sand to the project and says that he did so to make sure that work was not interrupted).

- **A problem of efficiency**: What appears to be a case of corruption is usually a problem of efficiency (eg a newly constructed bridge is swept away by the floods).

- **A matter of business**: Many doubtful decisions are in fact a matter of normal business (eg a

bank manager approves a line of overdraft for a client, recession hits the client's business and the client defaults).

- **A matter of etiquette**: What is acceptable and what is not is also subject to who is involved (eg if a waiter takes tips, it is alright; if the restaurant manager takes tips, it is a problem).

- **Simple negligence**: Often a bit of negligence also causes a great loss that appears to be the result of dishonesty (eg a tired police constable checking a consignment of goods does not check all the boxes, one of which contains contraband).

- **Interim irregularity**: There are also instances in which irregularity is inescapable for the time being (eg a secretary takes a decision in the absence of his minister and subject to her endorsement as soon as possible).

- **Skewed criteria**: Sometimes, even the criteria used for ensuring fairness are not 'straight' (eg the mayor of an overstaffed municipality, having considered many alternatives, including gender, performance records, seniority in terms of tenure and seniority in terms of age, finds seniority in terms of age to be fit for retaining her old friends and laying off the rest of the temporary employees).

Second, crime means a breach of social trust, while corruption means a breach of organisational trust. This dividing line between crime and corruption can also be drawn from Nye's definition of corruption and the following definition of crime given by Black's Law Dictionary:

> A crime may be defined to be any act done in violation of those duties which an individual owes to the community, and for the breach of which the law has provided that the offender shall make satisfaction to the public.[42]

Thus, if crime is a social problem, corruption is an organisational problem, or rather, first an organisational problem and then a social concern. Accordingly, a common citizen (a farmer, for instance) cannot commit an act of corruption. But a member of an organisation (a forester, for instance) can commit an act of crime.[43]

Third, viewed from the angle of the victim, corruption and crime also differ in that often recourse can pre-empt an act of corruption but can only follow an act of crime. For instance, if one breaks into your house and takes away your valuables, one does so hours before you can even inform the police about it. But if a junior employee of the Land Revenue Office asks you for some money by unnecessarily holding your file back, you can complain about it straight to the land revenue officer and get your file moved – provided, of course, that the land revenue officer is not crooked himself.

Alternatively, if one broadly classifies all wrongs as civil wrongs, criminal wrongs and organisational wrongs, one may consider organisational wrongs to be corruption (Figure 1).

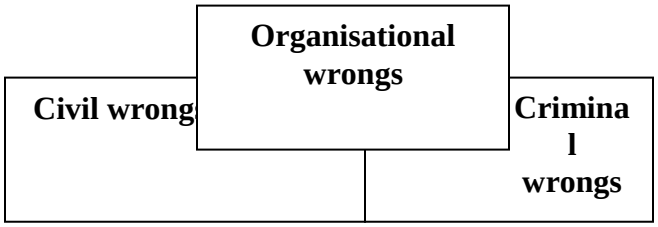


Figure 1: Civil, criminal and organisational wrongs

In certain situations an act of corruption may be linked to an act of crime, or rather, a criminal wrong. For example, an immigration officer gets a few dollars and lets in a foreigner without the requisite documents. Later, the foreigner is caught while collecting money from hundreds of youngsters against a false promise of overseas employment.

Nevertheless, if the immigration officer was not aware of the person's being a fraud, it can still be considered as an organisational problem and, therefore, a case of corruption. In such a situation awareness of the linkage of one's act with a criminal act serves as a border-line between corruption and crime. This is so irrespective of the type of organisation or the nature of business – whether it is the case of a teller buying counterfeit traveller's cheques in good faith or that of a minister licensing the use of certain forest products to an apparently genuine factory which turns out to be a means of poaching wildlife.

Also, there are instances in which a seemingly organisational offence is in fact a social concern – hence constitutes an act of crime. Sexual harassment on the job is a case in point.

Thus, if a member of an organisation, having been motivated by personal gain or otherwise, defaults on his duty originating from his membership of the organisation, his act is an act of corruption – provided that it does not

constitute a violation of the 'ordinary' criminal law or is not linked to any such violation to his knowledge and hence is not a 'general' case of crime.

1.3 The mystique of social tolerance

How did we learn to live with corruption?

(a) Historical perspective

Within the limitation of my knowledge of history, I do not find that historians have dwelt on corruption. Therefore, social tolerance of corruption is not so discernible in historical perspective. This does not mean, however, that looking backwards is unavailing. As said earlier, virtue tends to vary through the years in the history of a society and historical facts are often telling.

The recorded history of Nepal starts from the reign of *Lichchhavi* king Manadeva I. Manadeva I was not the first *Lichchhavi* king, of course. There were Dharmadeva, Shankerdeva, Brishadeva and others before him. The *Lichchhavi* era itself followed the *Kirata* era, which extended well over a millenium – from around ninth century BC to around 200 or 350 years AD.[44] Preceding the *Kirata* era were various kings, including a pedigree of the *Gopalas*, who ruled Nepal. This leads us to the Epic period and even to the Vedic period. But very little is known about those times.

The sole 'evidence' available to us regarding the so-called *Kirata* and pre-*Kirata* periods is the *Vamsavalis*, the oldest of which was compiled during the fourteenth century [AD].[45] Shreds of archaelogical evidence, including coinage and inscriptions, have been found only as of the time of Manadeva I – hence the first proven King of Nepal.

Manadeva I ruled Nepal at least from 464 to 491 AD.[46] The *Lichchhavis* came here from Vaisali of

India.[47] On the *Lichchhavis* of Vaisali, Jawaharlal Nehru writes:

> Near Pataliputra or Patna, there was the city of Vaisali. This was the capital city of a clan famous in early Indian history – the *Lichchhavi* clan. This State was a republic, and was governed by an assembly of notables with an elected president, who was called the *Nayaka*.[48]

Given their experience in Vaisali, the *Lichchhavis* instituted broad-based government in Nepal. They fostered such popular institutions as *panchalis* and *gostis*.

There was a *panchali* in every village. The *panchali* consisted of many members, including the p*radhan*. The procedure for constituting the *panchali* is not yet known. But it is clear from the Deupatan Kasaintol inscription of Narendradeva that the *panchali* was constituted as per certain rules, that such rules were engraved on copperplates and that some of its members were appointed by the king.[49]

A number of inscriptions of that time shed light on *panchali* activities. In the main, the *panchali* performed two types of function: functions related to local administration, eg settlement of disputes and hearing of cases, and functions related to common good, eg provision of irrigation and construction of rest-houses.[50]

Gostis were the other type of community-based organisation encouraged by the *Lichchhavi* rulers. As is clear from many inscriptions, especially the Lele inscription of Shivadeva I and Amshuverma, *gostis* were created to provide for a variety of community services, including those related to religion, drinking water, health care, sports and even transport.[51] Such *gostis* provided extended forums for public participation in social life.

The *Lichchhavis* also knew how to decentralise administration to better serve the people. In the Khopasi

inscription of Shivadeva I and Amshuverma a t*alaswami* is designated to hear all cases [that are not settled by local *panchalis*]. 'From now on, there shall be only one door [the t*alaswami*'s door] for you for the purposes of all acts and action.' Thus informed this inscription to the people of the Khopasi *tala*, relieving them of the difficulty in approaching any of the 'four doors' of the royal palace in Kathmandu.[52] The one-door policy, which we often talk about today, was already in practice some 1500 years ago.

Yet another notable aspect of the *Lichchhavi* administration is the emphasis placed on the rule of law. Many inscriptions of that time contain such words as 'all future kings, too, shall, having high regard to law, uphold this…'.[53]

There are clear indications that Nepal was prosperous during the *Lichchhavi* rule. Such prosperity of the nation was based on the general economic progress of society.[54]

The *Lichchhavi* government culminated in the reign of Amshuverma (571-616 AD) – hence the golden period of the *Lichchhavi* era.[55] A scholar himself, Amshuverma was probably influenced by Kautilya's thoughts.[56] By taking the unusual title of '*Shreekalahabhimani*', which means 'proud of quarrelling with Laxmi', the Goddess of wealth, he made it clear to all that the pursuit of wealth was less important for him.[57]

Hiuen Tsang, the famous Chinese traveller who came to India during the reign of Emperor Harsha-Vardhana (606-47 AD) and wrote an account of his travels on return home, also wrote about Amshuverma:

> Not long ago, here [in Nepal] was a king named Amchuphama [Amshuverma]. His repute and deeds of talent were famous far and wide. He had also written a

lexical treatise. He used to greatly respect scholars and sages.[58]

Hiuen Tsang came to India in 629 AD and stayed there for several years. But he did not come to Nepal himself. His writing was based on what he heard in India, more than 13 years after the time of Amshuverma. This also shows how widespread and long-lasting was the popularity of Amshuverma.

Thus this golden period of Amshuverma may be regarded as being at least one period in ancient Nepal when there was, in terms of today, 'good governance'. But this conclusion must be tempered by the following facts:

- that there were caste-based occupational strictures at that time, with the possibility of the lower castes being unable to fully participate in *panchalis*, *gostis* and other social organisations;[59]

- that there was apparently a tradition of slavery even then, albeit in a mild form, more or less of the domestic kind, and not like in contemporary Europe;[60] and

- that women's freedom as it is understood these days was not perhaps understood in those days, even though women also enjoyed freedom to an extent.[61]

Those good old days went quickly by, unfortunately. And an age of uncertainty intervened apparently after the reign of Jayadeva II, ie after 724 AD or so. Instability persisted until the last of the *Lichchhavi* kings, Jayakamadeva, passed away leaving no heir to the throne and almost throughout the medieval era.

In the medieval era, Nepal was divided into several principalities – some 50 of them at one time. The

economic impact of this fragmentation was perhaps less severe, thanks to the favourable location of Kathmandu. A trading centre between India and Tibet, business was brisk in this valley with conceivable positive effects on its periphery. Many of the cultural traditions as well as the beautiful temples, old palaces and wonderful sculptures that we so admire today owe their origin to this time. No less important are these cultural inheritances as an indicator of prosperity.

Given that there were so many tiny States fighting so frequently against each other over such a long period, a generalisation is not certainly justifiable. There are some signposts none the less.

For instance, we cannot forget Gorkha under King Ram Shah. 'You should go to Gorkha in case you are denied justice.' Still in the folk memory, this saying was popular during his reign (1605/6-33 AD). Ram Shah had defined governing rules, ethics and rules for ensuring impartial justice, among other things.[62] There is evidence in an ancient *Vamsavali* that the kings of the neighbouring States had, having recognised the value of such customs, lauded him and instituted them in their States as well.[63]

Thus, like the popular judgement of his judgement, the frontiers of Ram Shah's great society had extended well beyond the frontiers of his small State.

Having said that, I may add that the aristocratic *Thar Ghar* system is also attributed to Ram Shah. Madhab P Poudyal explains:

> [There was] an aristocratic type of administration known as *Thar Ghar* in which only the members of six noble families belonging to the Pandey, Pant, Aryal, Khanal, Rana and Bohara clans were given priority in recruitment, whose ancestors had helped Drabya Shah to establish the kingdom of Gorkha. Ram Shah formally

established this system of aristocracy as a reward for their services.[64]

Rewarding or punishing one's family for one's good or bad deeds was part of the ruling tradition in the Lichchhavi era, too, as is evident from the Yangalhiti inscription of Bhimarjundeva and Bishnugupta.[65] The *Thar Ghar* system should not therefore overshadow Ram Shah's vision of justice and many reform initiatives.

Almost one and a half centuries later, Prithvinarayan Shah was referring to the work of his forefather. 'I have seen the arrangements of King Ram Shah as well,' said the maker of modern Nepal in his *Dibya Upadesh*.[66]

During the medieval era, there were mainly the *Malla* kings in the three cities of the Kathmandu valley which was known as Nepal – the three-citied Nepal. The *Mallas* were also experienced rulers. Like the *Lichchhavis*, they are believed to have come here from India.

Kushinagar and Pawa, where Lord Gautam and Mahavir did pass away respectively, were within the jurisdiction of the republic of the *Mallas* then.[67] Just as the *Lichchhavis* came to the Nepal valley from Vaisali in the wake of the *Gupta* emperors in Magadha, so, too, might have the *Mallas* of around Kushinagar come to the Gandaki province.[68] Prithvinarayan Shah has also mentioned the arrangements of Jayasthiti Malla and those of Mahindra Malla in his *Dibya Upadesh*.[69]

On establishing the unified kingdom in 1769, which also marked the beginning of the modern era in the history of the nation,[70] Prithvinarayan Shah himself was anxious about corruption. In his *Dibya Upadesh*, the great King laid emphasis on clean administration.

Perhaps the most disappointing period in the modern era of the history of Nepal was the *Rana* period.

Instituted by Jung Bahadur Rana in 1846 AD, the *Rana* oligarchy ruled the country by eclipsing the Crown and by suppressing the popular will. The family rule lasted for 104 years, until it was overthrown by a democratic revolution.

Among the *Rana* Prime Ministers, it was Bir Shamsher who, on assuming power in 1885 AD, set a new precedent for treating national income as personal property and transferring the maximum part of it to foreign banks.[71] It may be recalled that Jung Bahadur Rana had declared it unlawful to transfer any part of national income to foreign banks.[72]

'Until the Interim Government was set up, all national revenue that was left after meeting government expenses was considered to be the private money of the Maharaja [the *Rana* Prime Minister],' said then finance minister Subarna Shamsher in his 1951 budget speech. 'There was no clear distinction between the State funds and the Maharaja's private money.'[73]

The *Rana* system of Prime Ministerial dictatorship culminated in the reign of Chandra Shamsher (1901-29 AD).[74]Consequently, he deposited around 400 million rupees at foreign banks.[75] The tradition of exploitation was much the same throughout the remaining years of the *Rana* rule.

Triangulating this with the contemporary situation in the neighbourhood, one finds that corruption had suddenly escalated in India during the Second World War. The Santhanam Committee observes:

> Till about the beginning of the Second World War corruption was prevalent in considerable measure amongst revenue, police[,] excise and Public Works Department officials particularly of the lower grades and the higher ranks were comparatively free from this evil. … The immense war efforts during 1939 to1945 which involved an annual expenditure of hundreds of crores of

> rupees over all kinds of war supplies and contracts created unprecedented opportunities for acquisition of wealth by doubtful means. The war time controls and scarcities provided ample opportunities for bribery, … favouritism, etc. The then Government subordinated all other considerations to that of making the war effort a success. … It would not be far wrong to say that the high watermark of corruption was reached in India as perhaps in other countries also, during the period of the Second World War.[76]

We may recall here that, in both world wars, Nepal joined the allied war effort in human and economic terms.[77] While the corruption-effect of this is difficult to ascertain, the war-time scenario was certainly favourable to the already corrupt *Rana* rulers.

Very tentatively, and ignoring most of the medieval and pre-medieval times, one finds reasons to suspect that corruption gained ground, forcing society to come to terms with it, initially around this time, or broadly, during the latter half of the *Rana* hereditary rule, in the recorded history of Nepal.

As expected, the situation changed after the dawn of democracy in 1951. In the ensuing years appeared new leaders, new institutions and new codes of conduct. Happily, the graph of corruption seemed to have a steep downward slope. This continued for some time even after the imposition of the *Panchayat* regime following an unceremonious ban on political parties in 1960 – until there appeared a conspicuous discontinuity towards the end of the 1970s.

More specifically, the problem of corruption suddenly exacerbated after the declaration of the 1980 referendum, possibly because of the inevitable political uncertainties associated with it. While empirical evidence is hard to produce, the terms that were in vogue in those days are also revealing. Earlier, we talked

about sporadic scandals; later, we talked about institutionalisation of corruption.

The term 'institutionalisation of corruption' was also popular in neighbouring India by that time. There a noticeable factor was the declaration of a state of emergency in 1975 which lasted for 19 months. 'The Emergency marks a watershed in the history of India,' says S S Gill. 'It spawned a plethora of ills: the breakdown of ideology in politics and institutionalization of corruption being its most serious fallouts.'[78]

Once again, the situation at home compares well with the situation in the neighbourhood.

Some suspect that an additional discontinuity in the graph of corruption may have appeared of late, especially following the reinstatement of democratic rule in 1990. The ever-present problem of corruption has undoubtedly persisted for these 12 plus years. But whether it has exceeded its previous level is doubtful.

Silvio Wasibord says, 'Corruption is more visible because of new political and media conditions rather than because the governments [of selected countries] are more corrupt than their predecessors.'[79] Perhaps the same is true of Nepal, too.

(b) Social tolerance

Given this 'historical transect', and also contemporary experience, social tolerance of corruption at a time in the history of a society may be explained by the socio-economic riches of the society at that time.

The social riches of a society may be considered in terms of social advancement and social institutions. This means that, at a given level of social advancement, the social riches of a society may be considered in terms of social institutions alone.

Similarly, the economic riches of a society may be considered in terms of economic advancement and economic institutions. Here again, given a level of economic advancement, the economic riches of a society may be considered in terms of economic institutions alone.

Now, therefore, we may ignore social advancement or economic advancement and dwell on the other two determinants of social tolerance of corruption in turn**.**

(i) Social institutions

A society is self-organising. Social institutions, defined broadly to include rules, customs and relationships, play a role in the self-organising process of a society.

Two types of social institution can be identified in any society. They are institutions of authority and institutions of propriety.

Institutions of authority are designed to ensure order and progression. Formal or informal and traditional or modern – institutions of authority are either instituted upward (ie bottom up) or instituted downward (ie top down). Generally speaking, democratic institutions are instituted upward, while autocratic institutions are instituted downward.

When I was doing my fieldwork in Bardiya, I once had the opportunity to observe the election of the k*ula chaudhari*. The people there had the custom of electing a k*ula chaudhari* from among themselves. The k*ula chaudhari* was entrusted with the responsibility for managing the local irrigation system with a network of canals. I forgot if the tenure of his office was a year or two years. But I remember that the way in which he was elected was fair enough.

The k*ula chaudhari* was a traditional institution of authority and was instituted upward. The c*haudhari* of

the *tappa* who acted as a revenue functionary in Bardiya and elsewhere in western and far-western t*erai* in the past[80] was also a traditional institution of authority. But he was instituted downward.

The process of establishing an institution of authority is less clear if the institution of authority is intermediate. In principle, if the institution of authority establishing an intermediate institution of authority is established upward, the intermediate institution of authority is also established upward. A National Planning Commission formed by a democratic government is also formed democratically.

Now, my first proposition is that social tolerance of corruption, or the level of corruption for that matter, tends to be low where institutions of authority are largely instituted upward and high where they are largely instituted downward.

It is inconceivable that the people of Bardiya would tolerate any misconduct on the part of the k*ula chaudhari*. But it was not so in the case of the '*tappa chaudhari*' in the past.

Institutions of propriety are intended to ensure fairness and freedom. Like institutions of authority, institutions of propriety are formal or informal and traditional or modern. They, too, are either established upward or established downward.

An example of institutions of propriety is the *panchayat*. Its origins are almost lost in antiquity. During the *Lichchhavi* era, it was called '*panchali*'. It was a rather formal institution then. The polity that was 'instituted downward' by suspending multiparty democracy in 1960 was also called '*panchayat*'. Consequently, the word itself has autocratic connotations nowadays. But that is a different thing. As an institution of propriety, the *panchayat* is key to our social life, especially in rural areas.

As a young boy, I have witnessed many *panchayats* that sat in my village. In one case, two neighbours had a serious dispute over the boundary of land. The traditional boundary - a water channel - had somehow shifted away, and the first neighbour understood that the water channel shown on papers and seen in the field formed the boundary. As attempts to settle the dispute bilaterally failed, the second neighbour called the *panchayat*.

Early in the morning the following day, some 40-50 people gathered on the spot. Having studied the case, the *panchayat* deemed it desirable to 'summon' the person who originally owned both parcels of land and had out-migrated somewhere.

When the *panchayat* resumed after a day or two, it decided that the boundary would be redrawn as indicated by this original owner, an old gentleman in his late seventies or early eighties. No one was allowed to utter a word, or indicate anything otherwise, as he was making marks on the ground – all out of his memory. From the garden spade, which he held in his hand, came much of the disputed land with valuable fodder to the side of the victim, the second neighbour.

In another case, the issue was a teacher's beating a pupil. On thoroughly investigating the matter, the *panchayat* acquitted the teacher. At the same time, it drew the attention of all teachers to the need for refraining from any unfair ways of punishing pupils.

Such was the way in which *panchayats* ensured fairness and freedom in our neighbourhoods. Unfortunately, of late, *panchayats* and other institutions of propriety are being impoverished for a variety of reasons, including their being supplanted by modern ones.

Not always are institutions of propriety operating. There are forces against propriety. *Panchayats* are dominated by influentials, traffic rules are broken by

drivers and auditors are bribed by spenders. These are all direct anti-propriety forces, however. They are always there – hence the need for institutions of propriety in the first place. We may therefore ignore them.

More relevant to our analysis are certain institutions of propriety which interact with other institutions of propriety with positive or negative effect. External institutions of propriety are an example. When external auditing builds on internal auditing, synergy results. But when internal auditing is overshadowed by external auditing, internal auditing becomes redundant. To that extent, external auditing may be regarded as being counteracting.

Another example is provided by the compensation policy. A fair institution of compensation combines well with other institutions of propriety, while an unfair one undermines them. Thus, when unfair, we have a counteracting institution of compensation.

Also, it is not the level of compensation alone that is important. Sometimes, the manner of compensation matters as well. Perhaps the institution of *jagir*, which existed in our society for ages until the end of the *Rana* rule, was counteracting, albeit other institutions of propriety usually operated in spite of it (Box 4).

Therefore, my second proposition is that social tolerance of corruption, or the level of corruption for that matter, tends to be low where institutions of propriety prevail over counteracting institutions of propriety and high where the reverse of this is true.

(ii) Economic institutions

A society is self-sustaining, too. Economic institutions – again, defined broadly to include rules, customs and relationships, play a role in the self-sustaining process of a society.

In the case of economic institutions, perhaps the right unit of analysis is families. As primary social units, families form a network of relationships – kindred, friendly, neighbourly and so on. Besides social meaning, these relationships have economic meaning. Economists, therefore, consider them as part of social capital. This is more so in a poverty-stricken society.

In a state of poverty families are striving to survive. Money becomes crucial as a means of survival and comes to dominate family networking. In such a situation two types of economics are operating.

The first is the economics of dependency. Poor families try to reduce dependency on them, so that they can survive themselves. Therefore, when a family, which is in some way dependent on a supporting family, starts making money, the supporting family is relieved greatly. It becomes none of the business of the supporting family to question the legitimacy of the income of the dependent family. As long as the dependent family is not a burden on the supporting family, the supporting family is happy.

Alongside the economics of dependency operates the counteracting economics of dependency involving all economic institutions that lessen the need for inter-family support.

Communities have traditionally learnt to counteract such dependency effect of poverty. An example is the *dhikuri* which is popular among the *Thakali* community of Thakkhola. This traditional mutual fund lends money to needy member-families. For ages, the *dhikuri* has produced entrepreneurs, bailed out businesses and counteracted the economics of dependency.

I have therefore my third proposition that social tolerance of corruption, or the level of corruption for that matter, tends to be low where the counteracting

economics of dependency prevails over the economics of dependency and high where the reverse of this is true.

The second is the economics of contingency. Poverty also means a state of economic uncertainties. Poor families have to establish and maintain borrowing relationships in order to survive through the alterations of good fortune and of bad. A fast-earning family in the neighbourhood can possibly help even out the irregular earnings of a hard-surviving family. The latter, therefore, does not want to pre-empt borrowing by questioning the legitimacy of the former's wealth. Indeed, people tend to give 'honour' to such makers of money. Thus we find a formerly corrupt civil servant being made the chairperson of a temple construction committee. This also partly explains why political parties present a rich 'social worker' as a candidate in the general elections.

The economics of dependency and the economics of contingency look similar. But they are at work in different ways. The economics of dependency works in such a way that a rich family is forced to ignore the nature of income of a poor family. Here the rich are somehow encouraging the poor to earn honestly or otherwise. By contrast, when the economics of contingency is at work, a poor family is forced to ignore the nature of income of a rich family. Here the poor are somehow encouraging the rich to earn honestly or otherwise.

Once again, we have the counteracting economics of contingency, involving all economic institutions that lessen the need for inter-family borrowing.

A good example of such economic institutions – the *dharmabhakari* – also comes from the *Thakali* community of Thakkhola. This grain bank, which lends grain to needy member-families at one per cent interest,

exists there from time immemorial and operates perfectly.

The effect of such a counteracting economic institution can be seen everywhere. Whoever opposes corruption is often an economically independent person. For instance, when a member of a water users' committee questions the chairperson who has allegedly misappropriated the committee's funds, she often says, 'I've nothing to give or take from her so why should I remain silent?'

This leads us to my fourth proposition that social tolerance of corruption, or the level of corruption for that matter, tends to be low where the counteracting economics of contingency prevails over the economics of contingency and high where the reverse of this is true.

Box 3: Ethical and Economic Dimensions of Corruption

Corruption has ethical and economic dimensions. Along the ethical axis are such behavioural excesses as nepotism, favouritism and misinformation. Sycophancy, blandishments and influence-peddling are some other common examples. Corruption in ethical terms is in essence a violation of professional mores.

Thus a professor who fails to remain true to herself while recommending her student for study abroad is as corrupt as a statistician who adjusts data by means of inclusion or elimination of extreme values for non-statistical reasons. Once again, behaviours which have been criminalised ‘generally’ should be distinguished from ethical corruption, even if such behaviours are exhibited within an organisation. Employing children in contravention of the child-labour law is an example.

But what concerns us more is the corruption along the economic axis. This includes all types of misconduct which lead to one's economic gain at the cost of one's

organisation or that of its client or any other stakeholder and which have not been criminalised generally.

For the most part, though, corruption has both ethical and economic aspects together. Asking a patient to come to her private clinic instead of treating the patient at the government hospital is against a doctor's professional etiquette and also means her personal gain at the cost of the patient (the hospital's client).

References

Chapter 2

Challenging the Conventional Wisdom

We have traditionally taken certain measures to fight corruption. Some of these measures, eg anti-corruption laws, were specifically intended to address corruption. The others, eg internal checks, were instituted in response to the operational needs of growing organisations. But inasmuch as they were devised to deter wrong deeds, they were anti-corruption measures, too.

Usually these measures consisted of many interrelated acts and means. For instance, controls included limits to authority, budgetary ceilings and operating procedures. In other words, they represented a conscious choice of acts and means. Thus they could be considered as strategies, even though they were not so called. Five such strategies can be identified. These strategies are also interrelated, representing a broad framework of the received wisdom.

On the surface, all these strategies seem to be sensible. Beneath the surface, they may not be so. Often they are self-defeating, as well as being an almost invariable constraint on organisational performance. Perhaps we may go over them in turn.

2.1 Controls: they also help legitimise wrongdoings

During the past 50 years or so of the post-*Rana* period in our history, every time we wanted to do something about corruption, our response was in terms of controls. The legislature limited executive discretion in its enactments, the Council of Ministers framed more detailed rules and ministries laid down new, restrictive guidelines. Adding to this, departments issued circulars in succession. For their part, banks,

corporations and universities grafted all these new provisions on to their statutes, bye-laws and standard operating procedures.

Apparently controls followed corruption, ie they were gradually put in place commensurate with the rising level of corruption. But I suspect that it could well have been the other way round. When we created our development organisations after the advent of democracy in the early 1950s, especially after 1956, we created them like business start-ups.[81] For quite some time, they functioned with freedom and flexibility – almost as today's non-governmental organisations. For the most part, trust governed their affairs.

Of course, there were controls. There were also those who betrayed. But controls were indicative and culprits were exceptional. Unfortunately, with every exception, we went on adding controls. We wanted to make sure that every contingency is accounted for.

Perhaps it all started with our enthusiasm for planning and regulation in the late 1950s, especially in the early 1960s. We believed that we could plan everything – from constructing irrigation canals to creating village co-operatives. We also held the view that, from the volume of trade to the style of teaching, we could regulate everything.

If our plan did not deliver the desired output, it was all because people down there in the field were not sincere at work. If our procedures did not work, it was, again, because these same people found loopholes in them. What was desirable during the late 1960s and throughout the 70s was obvious: more elaborate rules, additional columns in schedules and increased frequency of reporting.

Thus we specified within how many days our offices should act on an incoming letter, depending upon its type. We also prescribed what our senior officials should check while inspecting an office and how they should report their findings.

Then, in the 1980s, came an overwhelming wave of monitoring and evaluation. Not surprisingly, we created new divisions in our ministries and cells in our departments to monitor or evaluate what people did in the field. These divisions

and cells all bombarded our field offices with new reporting formats, questionnaires and check-lists. 'These days we do not have sufficient time for field visits,' said a project manager of the Small Farmer Development Project once. 'A week in a month goes doing reporting.'

To be sure, controls did work in certain cases, especially in short-term, more straightforward and campaign-like programmes. For example, the success of our Malaria Eradication Programme was due largely to rigorous scheduling and close supervision. Also, the failure of the famous Compulsory Savings Scheme is often attributed to poor record-keeping and a lack of internal auditing.

But they did not work at other times. Indeed, they usually turned out to be counteracting institutions of propriety. The three prominent dysfunctional consequences of our enthusiasm for controls are as follows:

(a) Rules become an end in themselves

Our rules have two critical features: They are overarching and they are all binding on you. With so many rules, their frequent revisions, circulars, gazette notices and even prime-time announcements, you are never sure if your action is rule-friendly. But you cannot violate them. If you do, you risk being penalised. These rules take it for granted that people cannot make mistakes. Naturally, therefore, your first job is to make sure that they are followed to their letter.

Moreover, seldom are these rules easy to understand. Designed to control you, they are worded ambiguously and are often followed by provisos – all those ifs and buts. No wonder legal advisors in our ministries and departments are always busy interpreting them.

If you are working at the centre, you are good if you are good at crafting such rules. Likewise, if you are working at a district office, you become indispensable by virtue of your familiarity with them, especially with years old departmental circulars.

I could not do research into it. Maybe students of management or administration will do it in future. But based on my own experience, I am tempted to say that not less than a quarter of the time of our typical government official is wasted while looking for the applicable rules, directives and so on, interpreting or arguing over what they prescribe and preparing or checking documents to fulfil their requirements.

We often hear of the 'come tomorrow' culture in our government offices. *Aadi Kavi* Bhanu Bhakta even wrote a poem about it: '*Bholi bholi bhandainma* …'. Many officials ask you to come tomorrow because of lethargy or ulterior motives. But many have to do so because of a lack of rule clarity in your case. Also, it is not unusual for your official to express his helplessness towards the closing hour of the day after tomorrow. This is the only sensible thing he can do when rules come in between you and him. Rules reign supreme in his world. Although they were meant to be a means, rules become an end in themselves for him.

Vice-President Al Gore's report points out how, over the years, going by the book got priorities back to front in American government:

> The first priority was the rules; the second was those who checked whether the rules were being followed (such as auditors and inspectors general); the third was those who made the rules in the first place (such as Congress and interest groups). Customers came last, if at all.[82]

When rules become an end in themselves, they also tend to define integrity. 'No, no – I didn't mean that', said a colleague once, 'you needn't break the rules and still won't have any difficulty in having *dal bhat*.'

(b) People are demoralised

Even if they are intended to facilitate action, controls symbolise mistrust. The less you trust in your subordinates, the more controls you tend to impose on them.

While working in Bardiya, I once reviewed the audit reports of a village co-operative. When I went through one prepared in 1973, I was taken aback. The report was so simple and so enterprising. I still remember the auditor's general line of argument in one case. The issue there was that the co-operative had to bear a considerable amount of loss due to some problem or simple negligence in transporting the goods it dealt in. The auditor's observation was something as follows:

> Having regard to the circumstances in which the goods were damaged and the opinions of the board members thereon, I have accepted the argument that the loss was part of the normal business. The loss has now been written off.

This was an ordinary field-worker. He wrote then what even the regional co-operative director could not write in 1987 – at least not without a long-drawn-out process of investigation into it. And his report was accepted. In addition, a typical 1987 audit report was thicker and pointed out only irregularities – sometimes even to an absurd extent. Evidently, the 1973 auditor was trusted, empowered and self-confident, while the 1987 auditor was mistrusted, impoverished and demoralised.

The same is generally true of other public servants.

In spite of their human cost, controls rarely enabled us to achieve 'control'. These mechanisms applied mechanically to all – sincere ones as well as swindlers. Moreover, the clever often found their way out; only the trustworthy were 'taken hostage'.

(c) Controls are used to legitimise wrongdoings

Suppose that you are the project manager of a rural feeder road project. You have to build the road by contracting it out. Also, suppose that you are a 'for-commission' project manager.

You follow the defined procedure. You invite bids, an evaluation committee evaluates technical proposals and you give the job to the lowest bidder among the technically qualified ones.

The contractor completes works. But the road is not up to the mark. The contractor's engineer files the works completion report. From your side, your engineer certifies it, you attest to it and, having checked all the documents carefully, your accountant makes the payment. You are happy with the promptness with which the contractor deposited your share of the commission in your secret bank account.

Then comes the rainy season and, even before your minister could agree on a schedule for formally inaugurating it, corruption takes its toll of the road – gravelling is virtually undone, drainage facilities are full of mud and retaining walls give in here, there and everywhere. Meanwhile, as part of the preparation for the inaugural event, your director-general comes to inspect the road and is disappointed at your performance. Suppose that this 'not-for-commission' director-general asks you about it all. What will you do?

Certainly you will plead not guilty. You will blame the contractor. You will also express your helplessness as to the selection of this substandard contractor. There was no lack of documents to disqualify this party on technical grounds. Nor could you reject them on financial grounds because the rules required you to select the lowest bidder unless there was sufficient reason to the contrary. You will also show her the works completion report which is ‘duly’ certified by your engineer. Then there is this year's exceptional rainfall for you to blame, of course.

Since you have complied with all the procedures, your director-general sees no point in arguing with you, even if she does not believe in all the whys and wherefores.

Now, suppose that there were no prescriptions, no evaluation committees and you were free to build the road in whatever way you chose. Could you blame the rules? Would it be justified to criticise the contractor? Could you refer it back to the works completion report certified by your engineer? Of course, you could still blame the rains. Otherwise, there would be no way you could fool your director-general. Instead, your director-

general could safely blame you: You were either incompetent or corrupt.

It is a paradox: the more we prescribe, the easier we make it for them. Auditors may have felt it the same way. Those who make money also make sure that everything is done according to the rules; those who are honest are prone to errors.

I should hasten to add that the non-official side of our society has always been trusting. Consider, for instance, the way in which we have been managing marriage ceremonies (Box 13). Even on the official side 'lateral thinking'[83] was there with us all along. For example, our Administrative Reform Commission had questioned the utility of control-oriented legislation as early as 1976. The Commission observed: 'All the rules that were framed under the influence of a restrictive mentality have already become inappropriate in today's situation where more and more investment has to be made possible in development work.'[84]

A quarter of a century on, it seems as though we cannot help it – the influence of a restrictive mentality.

Box 4: *Jagir*: A Counteracting Institution of Propriety?

Jagir means 'land and other sources of revenue assigned to government employees in lieu of emoluments'.[85] The tradition of *jagir* existed for ages till the end of the *Rana* chapter in our history.

During the Lichchhavi era, *jagir* was called *britti* as is evident from many inscriptions, including the Balambu inscription of Bhimarjunadeva and Jishnugupta.[86] Prithvinarayan Shah has also spoken about the assignment of *jagir* in his *Dibya Upadesh*.[87] Similar systems existed in other parts of South Asia in pre-colonial times. For instance, J S Furnivall writes about Burma:

> The officials drew no fixed salary. Some were paid by allotment of the revenue of a particular district, but for the most part their emoluments were derived from a commission on revenue collected, or from fees paid by the parties to a case. One great source of revenue was from local tolls on the transport or sale of goods.[88]

Jagirdars, or *brityadhikrits* as they were called in the *Lichchhavis*' time, were entitled to *jagir* or *britti* until they remained in office.[89]

At least during the 19th century, *jagirdars* also usually collected levies on commodities that passed through areas under their jurisdiction. The proceeds constituted the personal income of the concerned *jagirdar*, and did not accrue to the state treasury.[90]

The *jagir* system served certain purposes. In the first place it provided the rulers with the basis for sharing the benefits they enjoyed,[91]and secondly it enabled the State to expand its machinery.

The growing administrative and military establishments of the government during the period after political unification were mostly sustained through assignments of land under the *jagir* system of tenure, rather than through cash salaries.[92]

Whatever the purpose served by it, the *jagir* system mixed official revenue with the official's 'revenue', blurred the distinction between earned income and unearned income and veiled public offices, so that they could pass over public sanctions, if any. Perhaps this institution of *jagir* also facilitated the institution of the 'soft State' in our tradition.

2.2 Reward and punishment: they do not go together

Reward the good performer and punish the wrongdoer. This managerial maxim is also one of our strategies to check corruption. Unfortunately, this seemingly simple strategy has not worked very well in practice. I see three reasons for this.

(a) Reward and punishment are subject to controls

Reward enhances human self-image. All of us love to be recognised and rewarded for our efforts. Reward makes little sense when it is subject to controls, however. With controls, there is little for you to do. If you are creative, guidelines are there to limit your choice. If you want to be efficient, procedures are there to ensure delays. If you take the initiative in changing the status quo, your supervisor is often there to boast of his experience and block your move. Thus both your scope of work and the potential effect of reward on your work are severely limited. In fact, in a control-driven organisation, there is not much variation in people's performance. That is why many of the decisions to reward people are controversial.

This is a situation well demonstrated by Lloyd Nelson by means of a simple mechanical system. With a funnel mounted on a stand and a ball to be dropped through the funnel to rest at a target on the ground, Nelson would show, among other things, that the ball's proximity to the target is determined more by the system - the funnel, the ball, the surface on which the ball lands and so on - than by the person dropping the ball.[93]

Likewise, controls usually provide a rather arbitrary basis for punishing people. When controls cloud corruption, we often find the less corrupt being caught and the real culprit being left out. As a result, we even tend to be sympathetic of those who are brought to book, even though they are not innocent.

(b) Reward is subordinated to punishment

If we did some sort of content analysis of many letters going from our central-level offices to their field-based units, we

would probably find that one of the very frequently repeated words is '*karyabahi*' (commonly spelt '*karbai*').

In fact, it is usually in formal meetings or official reports or ceremonial speeches that we find reward being mentioned along with punishment. In the day-to-day business of our offices it is all *karbai*. When a director-general inspects a field unit, he is on the lookout for some fault there, so that he may give instructions with a mention of *karbai*. Those of us who have worked in the field may have felt that rarely does the director-general openly and fully appreciate the effort of his field staff. Thus reward is common in paper; what is common in practice is punishment, or rather, threats of punishment.

Our belief in punishment is widespread. Parents punish children, teachers punish students and coaches punish players. Punishment seems to be a panacea for all our problems – pedagogical, motivational, ethical and so on. But punishment is not elixir.

Based on the work of B F Skinner and others, Thomas J Peters and Robert H Waterman, Jr explain the contrasting effects of reward and punishment:

> Skinner and others take special note of the asymmetry between positive and negative reinforcement (essentially the threat of sanctions). In short, negative reinforcement will produce behavioral change, but often in strange, unpredictable, and undesirable ways. Positive reinforcement causes behavioral change too, but usually in the intended direction. … Further, punishment doesn't suppress the desire to "do bad." Says Skinner: "The person who has been punished is not thereby simply less inclined to behave in a given way; at best, he learns how to avoid punishment."[94]

By subordinating reward to punishment, we have underestimated the power of reward and relied on what is not very reliable.

(c) Reward and punishment cannot go together

If punishment does not suppress the desire to do bad, it can suppress the desire to 'do good'.

A British professor once told me that the idea of 'the carrot and the stick' came out of the British experience with donkeys: Donkeys moved by carrot in front and a stick behind.

But those were donkeys. We are talking about human beings. With human beings, you cannot use the carrot and the stick at the same time. As human beings, we all act reasonably. When the fear of punishment looms large, safety – and not recognition – is our priority.

Worse still, right-minded people, even though they are less likely to be punished for their mistakes, tend to have more safety concerns than others.

Box 5: Corruption Exists in Private Enterprises As Well

Many of us consider corruption to be only a public-sector problem. This is perhaps because anti-corruption legislation usually applies to *rastra sewaks*, broadly those who hold a position of benefit in public life.

The limited application of anti-corruption legislation does not mean, however, that our private enterprises are free from corruption. As long as there are people who gain economically or otherwise at the cost of their organisation or its client or any other stakeholder, corruption can exist in business as well.

'Although we tend to think of corruption as a sin of government, of course it also exists in the private sector, NGOs, and international organisations,' says Robert Klitgaard. 'Indeed, the private sector is involved in most government corruption.'[95]

2.3 Checks and balance: they also mean many barriers

'Ensuring proper checks on, and balance among, offices as well as officials prevents corruption.' So the pundits say. The argument is simple: The odds are that two persons will not be dishonest or two agencies will not be lax at the same time. With this belief, we went on adding checking and balancing mechanisms to such an extent that our system of government is overloaded with them today.

Take, for instance, the environment in which a District Education Office operates. It is a full-fledged unit representing the Ministry of Education and Sports in the district. As part of the normal managerial process, it is supervised primarily by the Regional Education Directorate and secondarily by the Department of Education. The Ministry of Education and Sports does not trust the district education officer and, whenever there is something important to do, subjects him to overhead bodies, such as the District Education Board.

Financially, the accounts comptroller-general sends the internal auditor to scrutinise its accounts. Then the auditor-general sends an auditor to do final auditing, keeping a check on the internal auditor. Finally will come an auditor on behalf of its donor organisation, if any.

Administratively, the chief district officer oversees its operations with frequent *chhadkes*, inspections and the like. The checking role of the chief district officer is rather ill-defined. It all depends on her working style. One chief district officer once told me that his policy was to deal with a sectoral problem through the concerned sectoral office and simply facilitate that if need be. But others may not be as liberal and prefer a hands-on approach to solving such a problem.

Additional financial and administrative checks are provided by the National Planning Commission, the Public Service Commission and the Ministry of General Administration by means of progress reviews, verification of compliance, management audit, etc. Besides, although they are rare, there

are also judicial reviews of the work of this office. And yet to be mentioned is the new, all-powerful regional administrator who may step in just in case.

The District Education Office itself is more like a 'checker' than a 'developer'. It maintains a cadre of school inspectors to keep a check on schools.

The costs of these checks are conspicuous. They cost money, time and so on. But their benefits are iffy.

Certainly checks and balance are indispensable to democracy. One of the six key institutions of democratic governance as identified in Human Development Report 2002 is actually ‘a system of checks and balances based on the separation of powers, with independent judicial and legislative branches’.[96]

But that is so across the three branches of government. When we apply the same principle everywhere, we tend to overdo checks and balance, so that they are at best futile and at worst counter-productive. Here are three reasons why.

(a) They encourage carelessness

Since the final auditor is to do it again, the internal auditor does not do it minutely now. The final auditor, in turn, relies on the internal auditor to be discreet. Similarly, if the chief district officer is to do c*hhadke*s, anyway, why should the district education officer bother about the regularity of the members of his staff?

Checks are often justified on the grounds that they help minimise mistakes, especially in financial transactions. But even in such cases, rarely do checks serve their purpose. Mistakes could actually be minimised by doing away with them. The first official would do it twice, or check her work herself, then. Many of us may have felt it many times. When you draft a letter for your superior, you just do it as usual. But when you have to sign the letter yourself, you do it very carefully, checking every detail - every word, every figure.

Checking, then, is not an add-on service. But checkers usually maintain a high profile. When I was at primary school, our teachers sometimes asked us to bring rice, milk and vegetables to school. Usually the responsibility was entrusted to class-five students because they were the most senior students at primary school in those days. We then helped our teachers prepare rice pudding and all. Those preparations were for someone who came to inspect our school, perhaps from the District Education Inspectorate.

Checkers commanded such hospitability in those days. They continue to expect the same even today. All this irritates 'doers' and only makes them more careless.

Nor does it mean that checkers can do what doers do not do. Many years ago, I sat for my SLC examination. I do not know how the SLC examination is conducted these days – I suspect that it is much the same way. In our time, there were two guards per sitting room. There were also running guards, as they called them, who passed through different sitting rooms every so often. In effect, these 'runners' were the guards of the guards. Then there were the vice-superintendent and superintendent. On top of the superintendent was some kind of District Supervisory Board, probably chaired by the chief district officer, not to mention surprise checkers coming from Kathmandu. Interestingly, those who were being guarded through such an endless chain of checks were not saboteurs – they were little school students who trembled even if they saw the shadow of a teacher.

Even with all those checkers, the fairness of the SLC examination varied from one centre to another and also from one sitting hall to another within a centre. If the room-guards were fair, it was all fair; if they were unfair, it was as unfair as it could be. There were even rumours that some of the room-guards helped students with one or two answers, while the running guards connived at their doing. More commonly, the running guards were stringent and, if the two room-guards were 'kind' to students, one watched for the running guards and

others, and another helped students in some way. In any case, if the guards did not do it, the guards of the guards could not do it.

(b) They create confusion about accountability

In the past, when the Nepal Food Corporation was actively buying paddy from farmers, it formed a committee for fixing the price of paddy. Chaired by the chief district officer, the committee was intended to provide a mechanism for responding to local market conditions, while preventing any misconduct on the part of the zonal manager of the corporation.

As a colleague told me, one of the possibilities feared by those who created this check of committee was that, left alone, the zonal manager of the corporation could make a secret deal with local merchants, whereby he would initially fix the corporation's buying price a bit lower than the going rate for paddy. Later, as soon as the merchants have bought enough paddy and it is also clear that the corporation could not get the same at that price to meet its seasonal buying target, he would suddenly raise the corporate buying rate, so that the merchants could bring back the paddy they bought to the corporation's depot and gain at its cost.

Certainly the committee seems to be a sensible check. But suppose that the committee also does the same trick. Suppose further that you are the general manager of the corporation and come to know about the committee's irresponsible act from the junior officials at your Zonal Office. What would you do? If you asked your zonal manager, he would say that the whole matter of fixing the price of paddy was dealt with by the committee. If you approached the chief district officer, she would tell you that the committee did everything as proposed by your zonal manager.

The same confusion would be there for a farmer who lost money by selling his paddy to one of the merchants initially, or for a journalist who wanted to know about the reason for the sudden rise in the corporate buying rate for paddy. If you were a member of Parliament and, in response to your voters' complaint, asked the concerned minister about it, you would

hardly be able to make a sense out of the minister's clarification. Not only you, but also the minister himself would be in a fog. In fact, in many cases, it is such confusion about accountability that creates a situation where our members of Parliament, having been unable to discern the reality, line up politically – some accusing the administration of harbouring corruption and others denying the same.

A state of confusion about accountability means a state of confusion about recourse for the victim as well. It also blocks citizen action against negligence, laxity and corruption. 'We couldn't find a place to complain,' complained a farmer in Nawalparasi not long ago. 'Wherever we go, they point to somewhere else.'

Since there are too many of them and none is clearly identifiable, it is now customary for us to say *sambandhit nikayas* – and not to mention the *nikaya*.

(c) They also mean many barriers

A year or two ago, I was attending a consultation in Kathmandu. The issue was whether the existing environmental legislation needed revision. As the discussion progressed, one of the participants expressed the view that EIA could be another barrier. By 'barrier', he meant a possible corruption point. Even though his remark was a bit off the point, I envied him his words: EIA could be another barrier.

I could quickly think of a wide variety of barriers. If you wanted to establish a factory somewhere, your first barrier could be the Department of Industries which would register your firm and renew it every year. Another common barrier could be the Internal Revenue Office.

If you needed to import some raw materials, the Department of Commerce could be your next barrier, not to mention the Customs Office or the Police Check-post. If you also needed some forest products as raw materials, the District Forest Office could also be a barrier because you would need its permission for using such products. In fact, it also kept down its own

barrier called the Forest Products Check-post along the road for you.

You could keep on adding them - the VDC if you needed its recommendation, the Department of Labour if labour legislation applied to your factory and so on. Finally, as our friend said, depending upon the nature of your factory or the scale of its operation, EIA could also be a barrier for you.

These barriers are sometimes kept down one after another at the same place. One of my friends once counted nine different agencies that were represented at the Tribhuvan International Airport. Some of these agencies were primary checkers, while others were secondary checkers, ie they were the checkers of the checkers. Yet the Tribhuvan International Airport is not 'a very clean place'. Indeed, the word ‘airport’ means opportunities for making money. People often say, ‘This department is as good as the airport' or ‘This section is the airport of this department’.

Checks, then, hardly check corruption. If anything, they add barriers – possible points of corruption. The more likely effect of checks is well-illustrated in the fable of the king's horse (Box 7).

This colleague used the word ‘barrier’ in a special sense. But checks form barriers in general terms, too. ‘The checks and controls that should drive improvement have been allowed to act instead as barriers to innovation,’ notes Britain’s Modernising Government White Paper.[97]

Box 6: Can Organisations Be Corrupt?

'This organisation is corrupt.' We frequently hear such a remark.

But as it follows from our definition, corruption is what contradicts with the interests of an organisation or those of its clients or other stakeholders.

A member, or a few members, of an organisation can do things to the detriment of the organisation. But the

organisation as such cannot act against its own interests. It can cheat its clients or other stakeholders, of course. But then, it is not a lawful organisation. It provides a case of crime, and not that of corruption.

Cannot all members of an organisation be deceptive at the same time, even if the organisation is lawful? In my opinion, the answer to this question is 'yes' and 'no'. If all members of an organisation act against the organisation's interests, they can do so only temporarily. The organisation will go bust soon. This is true of some of our public enterprises which have gone downhill because of the selfishness of a few – not all, not even many – of their members.

Likewise, all members of an organisation can exploit its clients only when the organisation enjoys monopoly business or coercive power. This is a situation which is sometimes referred to as 'institutionalisation of corruption'. But again, institutionalisation of corruption may be true only of a small organisation or of a small unit of a larger outfit. This is because the larger an organisation is, the lesser is the chance of all its members' being dishonest.

Thus some of our civil servants may accept bribes but all of them do not; some of our politicians may be crooked but all of them are not; and never is 'this organisation corrupt'.

2.4 Anti-corruption agencies: their presence also obstructs democratic processes

Something of a quick fix to the problem of corruption is the creation of anti-corruption agencies. There are mainly two types of them.

One is the agency of the ombudsman or 'ombudswoman'. The ombudsman is 'a commissioner appointed by a legislature, as in some Scandinavian countries, New Zealand, and elsewhere, to hear and investigate complaints by private citizens

against government officials or agencies'.[98] The practice began in Sweden in 1808/9. Petter Langseth, Rick Stapenhurst and Jeremy Pope elaborate on its functions:

> The primary function of the ombudsman is to examine two kinds of matters. The first are decisions, processes, recommendations, and acts of omission or commission that are contrary to law, rules, or regulations; that depart from established practice or procedure; or that are perverse, arbitrary, unjust, biased, oppressive, discriminatory, or motivated by bribery, jobbery, favoritism, nepotism, or administrative excesses. The second are cases of neglect, inattention, delay, incompetence, inefficiency, and ineptitude in the administration or discharge of duties and responsibilities.[99]

Another is typically an investigative authority called variously – the Corrupt Practices Investigation Bureau in Singapore, the Independent Commission against Corruption in Hong Kong, China and the inspector-general of government in Uganda.

If ombudsmen are watchdogs, anti-corruption agencies are bloodhounds.

Interestingly, of the two institutions of propriety, the first is more common in countries of the developed world, while the second is more common in countries of the developing world.

In developing countries the usual practice has been to first establish a department under a ministry, then to somehow upgrade it, possibly by placing it under the direct control of the head of the government and finally to elevate the same to an independent commission or something. The full-fledged anti-corruption agency is often a constitutional body, empowered to prosecute anybody from the peon to the Prime Minister.

In Nepal the *Kumarichok Adda* was a comparable anti-corruption agency in the days of the *Ranas*. The *Kumarichok Adda* was essentially an auditing *adda*. But for many years until 16 July 1908, the day on which the *Kitabi Sawal* issued on 22 March 1908 by *Rana* Prime Minister Chandra Shamsher came into force, this office performed the review function as well.[100] Section 2 of the 179-section *Kitabi Sawal* explained:

> …[C]ourts and police stations … dispose of at least 20,000 or 25,000 cases in a year. It is not possible for the *Kumarichok* Office to scrutinize each one of these judgments. The fear is always there that the case will be scrutinized by the appellate court in the event an appeal is filed. In the future, therefore, the *Kumarichok* Office need not scrutinize the judgments pronounced and penalties awarded by courts while auditing the accounts of their receipts and expenditure. The *Kumarichok* Office shall only ascertain whether or not the fines and penalties mentioned in judgments have been realized, and grant clearance accordingly.[101]

Shortly after the advent of democracy, we set up the Department of Corruption Prevention as provided for in the Prevention of Corruption Act 1952 (2009 VS) and the Rules framed thereunder. A new Act – the Prevention of Corruption among *Rastra Sewaks* Act – was promulgated in 1956 (2013 VS) and the Special Police Department was created to replace the erstwhile Department of Corruption Prevention.

The Prevention of Corruption among *Rastra Sewaks* Act 1956 was also found inadequate and the Prevention of Corruption Act was enacted in 1960 (2017 VS). This new Act, too, provided for the Special Police Department.

Later, in 1977, the Commission for the Prevention of Abuse of Authority was formed following the second amendment to the Constitution of Nepal 1962 (2019 VS)

in 1975 which provided for the same, among other things. This was the first and fully empowered constitutional body which could hear corruption cases involving high-ranking *rastra sewaks*, as well as investigating them. Corruption cases involving lower-level *rastra sewaks* were still under the jurisdiction of the Special Police Department.

Following the restoration of multiparty democracy in 1990, the Constitution of the Kingdom of Nepal 1990 (2047 VS) was promulgated which provided for the Commission for the Investigation of Abuse of Authority by limiting its scope of work to investigating corruption cases and prosecuting those involved therein.

Apparently nothing was wrong with this. We wanted a 'trustee' who could keep a close eye on our leaders or representatives. By doing so, we also intended to make it clear to them that we would not tolerate malpractices on their part. Not only then, but also now an overwhelming majority of us would see no harm in having such anti-corruption bodies. To those of us, the question is not whether we need one, but rather, how to make it more effective.

But it is also true that corruption has not been checked in spite of the Commission for the Investigation of Abuse of Authority. Indeed, as we saw in Chapter 1, it was around the late 1970s, ie soon after the Commission came into being, that there was a major discontinuity in the historical graph of corruption.

To be sure, the Commission has been constrained by many factors – organisational shortcomings, among others. But beyond such limitations, I also see some fundamental problems with this apparently ready-made cure to corruption. The first three are as follows:

(a) They take the ownership of the problem away from the government

In the absence of anti-corruption agencies, the burden of checking corruption lies on the concerned branch of the government. The Prime Minister is to blame for corruption in her administration, the Speaker of the House of Representatives and the Chairperson of the National Assembly have to ensure that the Parliamentary Secretariat functions in fair fashion, and the Chief Justice has to do something about any genuine complaints against the judiciary. Similarly, the heads of other constitutional bodies are also morally bound to project the image of their organisation themselves.

But the moment we create a separate agency, the burden of doing away with corruption shifts to the agency. All other agencies are psychologically absolved of the responsibility for taking action against it.

This is also because we tend to respect jurisdiction. For instance, a ministry does not do anything related to the scope of work of another ministry. If it does, the latter often complains against the former. So, if the Commission for the Investigation of Abuse of Authority has been entrusted with the task of safeguarding public interests, why should a minister worry about the same?

A friend of mine once took an appointment with his minister of state with a view to briefing the minister of state on the problem of corruption in his department. By doing so, he hoped that the minister of state would take care of the problem. Having listened to my friend, the minister of state agreed that the problem was serious. But to the disappointment of this friend of mine, the minister of state seemed to wonder as to the solution and simply hoped that 'the concerned agency' would do something about it.

The minister of state was not crooked himself. Indeed, it was his clean image that had prompted my friend to approach him in the first place. Nor did my friend intend to impress the minister of state in some way; he spoke to the minister of state with all sincerity

and in general terms. Since there was a separate constitutional body for checking corruption, the minister of state was apparently confused about his role therein.

This downside of anti-corruption agencies has been seen in the case of ethics officers in companies as well. Peter J Neary says that ethics officers are ‘a terrible idea’ because ‘you’re giving ownership of the corporate conscience to one person, and it becomes that person’s responsibility to catch ethics violations’.[102]

(b) Their role undermines the credibility of leadership

Soichiro Honda used to say to his people, 'Don't be afraid to make mistakes.'[103] And his people could believe him. In case they made a mistake, he would stand by their side and nobody else would question the wisdom of their 'mistaken act'.

But suppose that the general manager of the Royal Nepal Airlines tells her people the same thing. Will they believe in her? Probably not. They all know that anti-corruption authorities can still look into their doing.

This seemingly simple point of difference has important implications.

Your minister asks you to be proactive, take risk and learn by making mistakes. But you cannot rest assured that your minister can protect you just in case. Field-workers may have felt it many times. Whenever your director-general and the chief district officer of your district give you conflicting instructions, you are more likely to follow the instruction of the chief district officer, simply because she has got the power to investigate a case of corruption as delegated by the Commission for the Investigation of Abuse of Authority.

We often say that our administrators or politicians lack leadership skills. In my opinion, it is not so much the skill as the environment that is lacking here. As a leader, you have very little at your discretion, your subordinates cannot believe in your words and you yourself are vulnerable to 'non-supervisory

surveillance'. There are also instances in which your aides do not follow your instructions, even if you take the risk and issue them in writing. If they do, anti-corruption authorities can implicate them, as well as you, in case such authorities, with the wisdom of hindsight, find your instructions unfair.

When leaders' credibility is undermined, they are rendered weak vis-à-vis defiant followers. As a result, they take it for granted that they cannot help corruption.

Thus Dr Jagadish Chandra Baral, a district forest officer, orders his people to build an *upajash* ku*ti* from his tithe, but finds it unfeasible to order them not to take tips from businesspeople.[104]

Also, preoccupied with preventing corruption, anti-corruption authorities tend to overact. Hong Kong's ICAC is widely acclaimed for its role. But even in Hong Kong anti-corruption action sometimes lacks performance orientation. Max J Skidmore writes:

> For example, obtaining a driver's license for a Hong Kong resident requires a yearlong wait even to take the test. ICAC discovered corruption to issue licenses speedily, but fraudulently. The agency prosecuted offenders and recommended changes in procedures. Investigation also discovered that Hong Kong residents sometimes went abroad, obtained a foreign license, and then returned to obtain quick issuance of a Hong Kong license through reciprocity. ICAC recommended "legislation to restrict the automatic exchange of overseas driving licences for Hong Kong licences". ICAC proudly said that the legislation "also effectively blocked opportunities for corruption".[105]

Certainly I do not mean that anti-corruption authorities are likely to take hold of sincere leaders. Once again, rarely, if ever, are genuine mistakes punished. Moreover, we have the independent judiciary to assure all of justice.

Yet in practice a charge of corruption is a stigma in itself. Even if one is called to the office of the Commission for the Investigation of Abuse of Authority for some clarification in connection with a case of corruption, one's colleagues and others take it for granted that one is a wrongdoer. As a result, sincere leaders and their 'followers' alike want to avoid being questioned by the Commission at any cost – often at the cost of performance.

(c) Their presence obstructs democratic processes

Democratic rule works by virtue of a chain of accountability – appointed officials being accountable to elected officials and elected officials, in turn, being accountable to the citizenry. Parliament is the centre of activities in a democracy.

Certain functions, notably the discharge of justice, are of necessity simply anchored at Parliament and are allowed out of the normal chain of democratic control. But there are other functions as well, eg the selection of civil servants, for which we have created constitutional bodies and, for all practical purposes, left them out of the normal chain of democratic control, even though all such bodies 'report' to Parliament.

Constitutional bodies have their own merits, of course. But they also have some shared demerits, one of which is that they take functions away from the centre of normal, or rather open, democratic control.

I think that this downside is more pronounced in the case of anti-corruption action. If there were no other constitutional institutions of propriety, Parliament would have been the centre of anti-corruption activities, too. This would have forced Parliament to stay vigilant. Parliamentary parties as well as parliamentary committees and caucuses would have been

activated. Their activism would have forced the Prime Minister and her Cabinet colleagues to confront the problem, actively seek to check it and also claim credit for clean administration. Similarly, all of us – the people – would also have learnt to demand 'cleanliness'. Through this open process, and thanks to the free press, the issue of corruption would have been to the fore in the general elections as well.

Now that we have a separate constitutional body, any case of corruption is quickly passed on to this body. Even if the Public Accounts Committee of the House of Representatives takes the initiative in examining one, its intention as well as the 'constitutionality' of its initiative is questioned.

Our ministers do not have to report to Parliament on the state of corruption in their ministries. Whenever members of Parliament ask about any allegation of corruption, they can decline to answer such questions by referring to anti-corruption agencies. Even the Prime Minister does not speak much about the problem at Parliament or other public forums and escapes it with some rhetorical remarks, eg by promising the support of her administration for these same agencies.

Box 7: Alas, the King's Horse Died

I am often reminded of a fable which is popular among auditors. The story goes as follows:

Once upon a time, as usual, there lived a king. One day, in his dream, the king saw a nice horse drink water in a river. At daybreak, the king sent his men to check if the horse was still there. Indeed, there was one and the king's men brought it to the palace.

Naturally, the king was extremely happy. He ordered his men to build a separate stable for the horse. He appointed a special caretaker and ordered his aids to provide the caretaker with whatever he needed to properly look after the horse.

Everything went well for some time. Later, however, the caretaker learnt to make money by stealing part of the horse's feed. As days passed by, the king noticed that the

horse was getting a bit thin. He suspected that the caretaker was not feeding the horse adequately. He feared that the horse would die soon if he did not do something about it. So, he assigned a man to check if the caretaker was feeding the horse adequately.

But to his dismay, the king found that the horse was getting thinner than ever. Then the king appointed another man to oversee the work of the first two. By doing so, the king hoped to improve the condition of his horse. But alas, with this third man there, it was not long before the king's horse really died.

2.5 Special treatment: treating specially also means doing less frequently

Several years ago, I met with a terrible accident. While we were passing through the Daunne Hill, our bus collided with another. Many of those who were on the front side were injured seriously. I bruised my knees, shin and forehead. For quite some time afterwards, as I shared the experience with my friends, we also discussed the safe mode of transport.

Travelling by air was perhaps the safest of all but was not affordable for students like us. Travelling by land, too, presented many alternatives. The night bus was just in vogue then. It was wonderful, albeit a bit expensive. The day bus was of two types: the ‘express’ one and the ordinary one. The former ran faster and was usually more comfortable than the latter. Travelling by truck was also commonplace in those days. Trucks were cheaper and you could even get the front seat.

Yet another alternative was official jeeps and private cars. Often the ‘owner’ travelled by air and ordered the driver to take the vehicle through the road to receive him at the airport of his destination. For money or for company, the driver picked up one or two passengers along the way. So, if you did not mind waiting for a while and stood by the side of the road at Kalanki in Kathmandu or at Chauraha in Butwal, you also stood a chance of getting such a vehicle, too.

Given all those options, and to our own surprise, every time we discussed it, we tended to conclude that the safest mode of transport was the ordinary day bus.

The ordinary day bus had shorter routes and slower speed, and was seldom the target of highway robbers. The driver of such a bus was likely to be an old fellow, driving the same bus along the same route for a long time. He, therefore, knew which turns were nasty, knew where he could come across school children, awkward buffaloes or high-speed buses, and also knew the last-moment defences. 'My brakes failed at a place where there was nothing except the deep gutter to obstruct my speed, but I knew that a little open space was not very far,' said a driver once. 'So, I patiently held the steering and, as soon as I got there, carefully turned round the corner leaving none of my passengers hurt.'

To be sure, the ordinary day bus was noisy, stopped everywhere and did not guarantee anything. Nevertheless, if safety was your concern, it could be your choice. On that day, too, I was travelling by such a bus. The other bus also looked the same. While I did not know the exact cause of the collision, I could not certainly hope to so easily escape serious injury if they were high-speed buses.

Unfortunately, we hardly believe in something ordinary – ordinary buses, ordinary schools, ordinary hospitals and so on. Therefore, whenever we have a problem, we seek to address it in special fashion. We felt the need for creating employment opportunities and added the Commission for Employment Promotion to the Department of Labour and Employment Promotion, the Ministry of Labour and Transport, and the National Planning Commission. In an effort to make our postal services more efficient, we decided that there would be a special cadre of civil servants providing such services.

In fact, it has been fashionable for us to call for special treatment. If our doctors are reluctant to go to rural areas, we readily recommend that they should be given special incentives. If our export-oriented industries are having some difficulties,

we are quick to propose that we should establish a special export-promotion zone.

Our penchant for special treatment is equally reflected in our bid to combat corruption. We have a special commission – the Commission for the Investigation of Abuse of Authority – as mentioned earlier. We also have a special Act – the Prevention of Corruption Act 2002 (2059 VS). We found the Department of Corruption Prevention set up as provided for in the Prevention of Corruption Act 1952 and the Rules framed thereunder to be ineffective in investigating corruption cases and created the Special Police Department to replace it under the Prevention of Corruption among *Rastra Sewaks* Act 1956. Corruption cases are heard by the Special Court. What is more, if found guilty, corrupt people are punished severely, ie specially.

However, like other conventional strategies, special treatment has hardly served its purpose. On close examination, we find that special treatment has actually worked for, rather than against, corruption. The following are the three ways in which it can be self-defeating:

(a) Special treatment causes unwanted fear

Suppose that you are the co-ordinator of the Privatisation Project run by the Ministry of Finance. Your job is to privatise moribund state-owned enterprises. You and your colleagues are all honest officials. You all want to follow the prescribed procedure, be transparent and also strike a square deal with the concerned party.

Now, suppose that you arrive at one point where you have two competitive bids for one of your enterprises. The first offer is for Rs 40 million in cash and the second offer is for Rs 30 million in cash plus equity shares worth Rs five million. Thus there is a difference of Rs five million in the price offered by the two parties which are both multinational companies.

But the real difference between them lies in their reputation in the international market. The first offer comes from a company which is largely unknown. You are even sceptical about their intention (eg they may have been tempted to bid higher simply because of the value of the freehold property of the enterprise).

By contrast, the second bidder is an internationally reputed company. You can count on their ability to give a new look to this enterprise and expand its business.

You and your colleagues think that the second offer is in the best interests of the government. At the same time, your decision may well be controversial as it means a direct loss of Rs five million. Will you take the risk and do what you think is good for the government?

Naturally, as a reasonable person, you will step aside and think of the eventuality that would arise if you were dragged into the controversy surrounding your decision. If the worst thing happened, what would it be?

Maybe you discuss it with the members of your staff. One of your colleagues says that you can be shunted off to a different office. You tell him that it will not be a problem for you. 'They can sack you,' says another friend of yours. You become a bit emotional. 'Don't worry', you say, 'I will find a better job elsewhere'.

You are qualified, clean and relatively young. You will not have any difficulty in finding a job just in case. So, you are likely to proceed ahead with your plan. But about that time, having read your decisive appearance, an old colleague raises his hand. Sharing his experience with you, he warns that you could even face prosecution for suspected graft, adding that you may be sentenced to imprisonment from four to six years, as well as being required to make good the loss of Rs five million and pay a penalty to the tune of the same. Will you still take the risk?

Certainly you cast doubt on what this old colleague of yours is saying. There is no real chance of your being prosecuted in this way. At the same time, there is no guarantee that they will

not do so. In case they do so, it will be too much for you. You think of your future and that of your spouse and children. Why should you bother about your country by taking risk to such an extent? You really become scared of what can happen to you, even though it is very unlikely.

Quite conceivably, only those who expect a rake-off are not afraid to take this level of risk. To clean people, the only option is to somehow avoid the decision or start the process all over.

In fact, many momentous decisions are postponed, practical proposals rejected and timely tender notices cancelled because of unwanted fear. Unwanted fear is by far the most serious factor that affects efficiency in our public sector. We did it all for deterring people to do things wrong and ended up in deterring people to do things right.

(b) Special treatment causes unnecessary delay

Special treatment also causes unnecessary delay in anti-corruption action. Two types of delay are possible: delay in initiating action and delay in winding up the case.

Initial delay is caused by many practical difficulties as well as psychological barriers. Suppose that a city manager has done a series of things suspiciously wrong and the mayor wants to take action against him. Since it is a case of corruption, the mayor requests the Commission for the Investigation of Abuse of Authority.

The Commission may be busy with so many cases. It is therefore likely that the Commission refers the case to the concerned chief district officer. The chief district officer may have her own priorities. She may also ask for credible evidence or something before actually initiating the process. All this may take weeks, even months. At times, investigation may be deferred or the case forgotten due to a lack of time or people. This would do good if the mayor's complaint against his manager was not genuine. But if he was a real culprit, failure to

respond to the complaint would tempt him into doing many more things wrong.

Likewise, special treatment makes it difficult to close a case. Suppose that the chief district officer undertakes the city manager's case. The mayor will appreciate the move. Local newspapers will make headlines of it. Civil society groups will also support it. Now, suppose that the chief district officer finds that the city manager has done certain things wrong but he has done so out of mistake or with good intention. Will the chief district officer dismiss the case?

The odds are that she will carry the case forward. If she does otherwise, there will be a hue and cry. She will be accused of trading inaction. Her decision can even invite anti-corruption action against herself. In fact, when the attorney-general opined that a person who carried with him 12.1 million Indian rupees of the 500 denomination needn't be prosecuted, his opinion was questioned by the Commission for the Investigation of Abuse of Authority. This prompted the attorney-general to go to the Supreme Court.[106] No wonder that many investigators carry such cases forward to court, even if the available evidence is not sufficient to convict the accused.

Cases that are not taken to court for want of evidence are not completely closed, either. They usually lie dormant for several years. One of my friends once bought a tyre for his vehicle with money approved for gasoline. Since the tyre was bought off the budget line, gasoline was entered into the store ledger and the tyre was fitted on to the vehicle. Somebody informed the Special Police Department about it. The investigators found him guilty of making unauthorised purchase. However, they did not want to prosecute him as it was all done with good intention. Even then, they asked him to report to them at regular intervals. It was two or three years before this friend of mine could finally rid himself of the trouble.

Delay in closing anti-corruption action is as costly as delay in initiating the same. Usually an investigation of this nature extends to many people and all of them are preoccupied with it. In certain instances, even those who are not charged of anything

and are completely innocent also remain afraid of being somehow dragged into the case until it is effectively wound up. Thus the performance of a number of people is severely affected.

More important, when a case is settled quickly and they are acquitted, even innocent people may not mind being blamed for a while. But when the case is prolonged, they are likely to lose morale forever.

(c) Treating specially also means doing less frequently

Special anti-corruption authorities have their own limitations. It is not possible for them to stay vigilant against corruption across the country, no matter what they do. Even if they are very efficient in discovering corruption through citizen complaints or other sources, they will be unable to handle all cases properly. This is because special treatment also makes the job of investigators difficult – practically and psychologically.

In practical terms, conducting investigation, collecting evidence and convincing the bench are all demanding tasks. The Special Court, which hears corruption cases, may not be there in the district and investigators may have to frequently take to, and bring back from, the Special Court their 'awkward customers'. In the course of their investigation, investigators may need to seize documents, lock up stores and take people under police custody. This usually disrupts the whole business of the organisation and creates problems for the general public. In fact, when anti-corruption action takes place in an organisation, it has serious repercussions on the organisation. Thus, by taking up a case, investigators in effect create much hassle for themselves.

Nor is anti-corruption action very interesting. This is partly due to the severity of punishment. Severe punishment is also one reason why people rarely complain against corrupt officials. One complainant once told me that he rued the day he had decided to lodge a complaint against an official. He never thought that the case would be so serious. The official had

accepted some money out of little greed. The official was sacked and sentenced to imprisonment.

The result is what we all are complaining about: anti-corruption action is rare. Since there can be many consequences, sensible investigators do not take up a case of corruption unless it is really serious or they come under public pressure to act. Thus, when people complain that his junior official has taken a bribe from an innocent citizen, the chief district officer escapes the fact by simply asking the junior official to return money.

Besides, the more severe the punishment you demand, the more irrefutable proof of guilt you need to produce in court. Lawyers know best. When a public prosecutor, producing satisfactory evidence, asks for some indicative fine, judges may agree. But when she asks for 10 years of prison sentence as well as fines and all, judges will naturally call for conclusive evidence. In the absence of such proof, judges are likely to give the defendant the benefit of doubt, for it now becomes the question of his life. No wonder that the conviction rate in charges of corruption is generally low.

Thus, by treating corruption cases specially, we have not only left out the majority of them, but also lost many of them on the legal battle ground.

Box 8: Is Policy Corruption a Myth or a Reality?

'It was last year when the government decided to refund businessmen 75 per cent of the VAT collected by them that we witnessed by far the most serious case of corruption in the history of Nepal,' said a participant in a television talk show the other day.[107]

Defending the decision, then finance minister urged him and others not to question the intention of the government. Admitting that the policy was pursued at the expense of the national treasury, he explained that the

same was intended to promote an understanding with the business community.[108]

Relating policy to corruption has been common in our country these days. Whenever we do not agree with a policy choice, we tend to attribute it to ulterior motives. Because corruption is rampant, it is difficult for us to consider policy to be beyond suspicion.

Policies are, by definition, non-discriminatory. Even if a policy is discriminatory, it applies non-discriminatorily to all whom it does. Thus the scope for 'policy manipulation' is limited in the first place.

There are case-specific policy decisions, of course. But often there is a 'policy' to guide such decisions, too. A foreign bank is licensed to promote its subsidiary in the country as part of the foreign investment policy, a private school gets the customs duty on its vehicles exempted in line with the education policy and a rich farmer is offered a heavily subsidised biogas plant plus a readily available loan by virtue of the energy policy.

To be sure, people may use double standards – or no standards – while implementing such policies. But then, it is a different type of corruption, and not policy corruption.

There are also instances in which policy bodies, eg the Council of Ministers, create exceptions to the rule. A particular private bank is bailed out, a particular case is withdrawn from court and a particular contractor gets a variation order. Such special-case decisions often provide grounds for suspicion.

Many exceptions are genuine or otherwise justifiable, however. More important, exceptions are likely to set a precedent for future cases, so that either policy makers do not create exceptions unless they really have to or exceptions soon make a rule of their own. Therefore, policy corruption by way of special-case decisions is also a rare possibility.

One frequently feared form of policy corruption is distorted policy choices due to lobbying and other influences. The open policy process naturally involves advocacy, lobbying and all which may be desirable even, especially in the case of weaker stakeholders. If more influential groups tend to succeed in lobbying more often than less influential groups, that is a reality policy makers need to be aware of; that is not policy corruption.

Theoretically, therefore, policy corruption is not easy to define or explain.

Linking corruption to policy is untenable practically also. This is because policies are not always ideal choices; they frequently represent trade-offs. They can be good or bad and timely or untimely. Moreover, not all stakeholders are satisfied with a given policy. So, policies are debated, criticised and revised through the politico-administrative process.

I would not argue that policy makers are not occasionally influenced by greed, kinship or electoral considerations. But this is better ignored than accounted for. I doubt that we will be heading for anywhere otherwise.

After all, will not it sound odd if we hear tell of corrupt councils, corrupt laws, corrupt legislatures?

References

Chapter 3
Fighting Corruption: The New Agenda

The conventional wisdom about confronting corruption has been of no avail. Nor will doing more of the same help. As we saw in Chapter 2, the conventional weaponry has built-in weaknesses. Therefore, there is no point in adding controls, strengthening anti-corruption authorities or devising special punitive measures.

Clearly, it is imperative for us to gain a different perspective on the problem. This brings us back to the basics. In Chapter 1 we defined corruption as a betrayal of organisational trust. Here we may consider these basics, too, in organisational terms.

The government is a broad system, of course. But it is an organisation as well. Later, we will identify 'managerially self-contained subsystems' within this large organisation. For now, though, our focus is on the organisation - small or large - as it strives to escape corruption and uphold trust.

In my opinion, there are three factors that determine the choice of an anti-corruption strategy in an organisation: the nature of membership, the nature of leadership and learning imperatives (Figure 2).

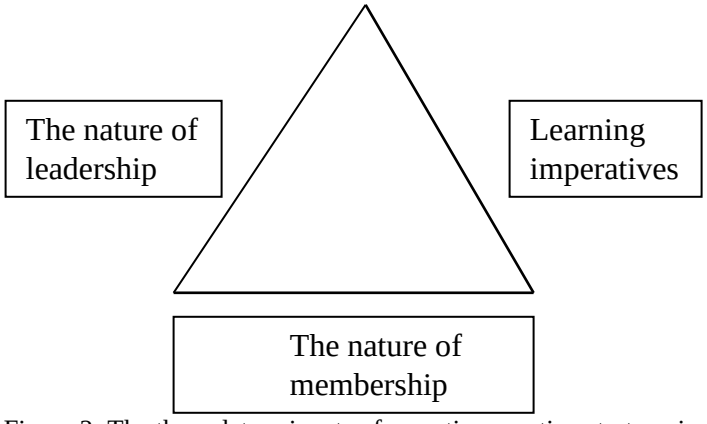


Figure 2: The three determinants of an anti-corruption strategy in an organisation

(a) The nature of membership

According to Oxford Advanced Learner's Dictionary of Current English, a 'generation' means 'the average period, usu considered to be 25-30 years, in which children grow up, become adults and have children of their own'.[109] A period of 25-30 years is also roughly the average length of service in government. Thus, if we count from 1951, ie the year when the repressive *Rana* oligarchy was overthrown, we are two generations on in both social and organisational terms.

Those who joined the civil service around that time have already gone home and most of those who replaced them - ie people like me - have also been replaced by newcomers.

When we joined the civil service, we were surprised at the authoritarian posture of our superiors. We were often at odds with them - even over small matters. Yet we almost took it for granted that, at least about official business, they were more knowledgeable than us. So, we seldom questioned their instructions.

But our new colleagues are not like us. They do not consider the superior to be essentially 'superior' to them. Nor do they take an instruction down the line at its face value. If they do not see the point of one's argument, they are quick to ask for it, even if it means begging pardon of the big boss. They are collegiate. To them, seniors are 'sophomores'; superiors resemble advisors on Master's theses. Our generation was, and still is, largely submissive; theirs is 'reasoning'. Here is how these newcomers are different from us.

Table 1: People in Organisations: Changing Profiles

The old generation	The new generation
Submissive	'Reasoning'
'Closed'	Open
Local orientation	Global orientation
Ritualistic	Casual
Regard for kinship	Regard for friendship
Manual workers	Knowledge-workers
Freedom-lovers	Freedom seekers

The all the more important aspect of this generation gap is that successive generations are increasingly knowledge-workers.

The changing knowledge profile of organisational membership is not a national phenomenon. It is global and basic. Alvin Toffler sees it as marking the Third Wave of change. 'This latest historical turning point arrived in the United States during the decade beginning about 1955 - the decade that saw white-collar and service workers outnumber blue-collar workers for the first time,' says Toffler.[110]

Hardly had few years gone by when Peter F Drucker was writing about Knowledge-workers. 'He [the knowledge-worker] cannot be supervised,' said Drucker. 'He must direct, manage, and motivate himself.'[111] Drucker and others have since been writing about managing knowledge-workers. In a recent work Drucker compares knowledge-workers with volunteers:

> What motivates - and especially what motivates knowledge workers - is what motivates volunteers. Volunteers, we know, have to get more satisfaction from their work than paid employees, precisely because they do not get a paycheck. They need, above all, challenge.[112]

But the interesting thing about generations is that they perceive gaps on one side, and not on the other. Charles Handy calls it ‘the paradox of ageing’. ‘The paradox of ageing is that every generation perceives itself as justifiably different from its predecessor, but plans as if its successor generation will be the same as them,’ says Handy.[113]

Thus we need to think in terms of the new generation, and not in terms of ours. More specifically, if the submissive, employee-like manual workers of yesterday were amenable to restrictive means of control, liberating means need to be invented to control the reasoning, volunteer-like knowledge-workers of today.

(b) The nature of leadership

'In order for an organization to have integrity, it must have an identity,' say Warren Bennis and Burt Nanus.[114]

Organisations are often identified with their leaders. The Kathmandu University is associated with Suresh Raj Sharma, the Women's Development Division (now the Department of Women's Development) makes us think of Chandani Joshi and the Backward Society Education means Dilli Bahadur Chaudhari.

Leaders also come to acquire the identity of their organisation. Dhirendra Prasad Shrestha, Anuradha Koirala and Khadgajeet Baral have all assumed a variety of roles in public life. But we tend to link Dhirendra Prasad Shrestha to the Tribhuvan Multiple Campus, Anuradha Koirala to the Maiti Nepal and Khadgajeet Baral to the Nepal Police.

Leaders are not necessarily top people in their organisation. Isadul Islam was merely a marketing manager at the Nepal-Arab Bank long ago. Yet the Nabil Bank is very much like him even today.

When organisations are identified with their leader, or when leaders are known for their organisations, leaders are in their people. 'The problem with the Agriculture Development Bank is that all the people there - right from the general manager down to a peon - speak the same language,' said a director at the Department of Veterinary Services once. The director was concerned that the bank was not flowing loans to farmers liberally. But what was a problem for him was a 'property' for the bank - its identity.

Leaders' attitude towards their people and also their own self-image are decisive in many choices, not least in the choice of measures to prevent corruption. Those who take a pessimistic view and believe that people are prone to wrongdoings, as well as feeling themselves helpless, tend to rely on controls and corrective mechanisms. By contrast, those who take an optimistic view and believe that people are trustworthy, besides believing in their own ability, are likely to lay emphasis on self-control and individual initiatives.

Bennis and Nanus say, 'Historically, leaders have controlled rather than organized, administered repression rather than expression, and held their followers in arrestment rather than in evolution.'[115]

This type of leadership was part of the mechanistic organisation. Initially, there was the impression of the factory. '… [S]ocial inventors, believing the factory to be the most advanced and efficient agency for production, tried to embody its principles in other organisations as well,' says Toffler.[116]

Then there was the impressive military organisation. As Gareth Morgan writes:

> Much was learned from the military, which since at least the time of Frederick the Great of Prussia had emerged as a prototype of mechanistic organization. Frederick, who ruled from 1740 to 1786, inherited an army composed for the most part of criminals, paupers, foreign mercenaries, and unwilling conscripts - an unruly mob. He was determined to change this … . He borrowed much from the practice of Roman legions and the reformed European armies of the sixteenth century but also introduced numerous innovations of his own. …
>
> Among these reforms were the introduction of ranks and uniforms, the extension and standardization of regulations, … the creation of a command language, and systematic training that involved army drills. … To ensure that his military machine operated on command, Frederick fostered the principle that the men must be taught to fear their officers more than the enemy.[117]

There was no parallel to the military organisation in its discipline, effectiveness and 'scientific' look. Drucker says, 'One hundred and twenty-five years ago, when large enterprises first came into being, the only organizational structure they had to model themselves on was the army: hierarchical, command-and-control, line and staff.'[118]

Apparently early management thinkers were convinced that people could be organised in the same way as the moving parts of a machine. And with this conviction came the command-and-control to dominate management thinking until the 1930s or so, when Elton Mayo and his associates discovered the value of socio-psychological factors at work in the course of their historic 10-year research involving around 20 thousand people in a series of experiments. 'The desire to stand well with one's fellows, the so-called human instinct of association, easily outweighs the merely individual interest and the logic of reasoning upon which so many spurious principles of management are based,' clarified Mayo.[119]

By the early 1960s, two lines of thought could be distinguished which were labelled 'Theory X' (that believed in command and control) and 'Theory Y' (that believed in people and their ‘desire to stand well with their fellows’) by Douglas McGregor.[120] Later, however, people-centred ideas formed the mainstream of management thinking.

The command-and-control style of leadership is giving way to the democratic style of leadership everywhere today.

In the 1960s, when Fred E Fiedler proposed his contingency theory of leadership postulating that the task-directed, or authoritarian, type of leader is most effective under very favourable and very unfavourable situations and the human relations, or democratic, type of leader is most effective under moderately favourable or moderately unfavourable situations, he had offered his oft-cited explanation for the predictable success of the task-directed, or authoritarian, type of leader in very favourable situations:

> In the very favourable conditions in which the leader has power, informal backing, and a relatively well-structured task, the group is ready to be directed, and the group expects to be told what to do. Consider the captain of an airliner in its final landing approach. We would hardly want him to turn to his crew for a discussion on how to land.[121]

Yet, today, many experts suspect that the main cause of the frequent crash record of the China Airlines could be its strictly hierarchical structure inhibiting communication and consultation among crew members.

The same is true of the military. In fact, already in 1964, Warren Bennis and Philip Slater observed:

> By and large, these conceptions are changing, and even the military is moving away from the oversimplified and questionable assumptions on which its organization was originally based.[122]

Leaders who believe in people quickly find that people echo their voice as in the Agriculture Development Bank. They are also likely to find that people are always meeting their expectations. This is because of the now well-known Pygmalion effect, or the effect of one person's expectations on another person's behaviour. J Sterling Livingston, who first documented the effect of managerial expectations on people's performance, says:

> If managers' expectations are high, productivity is likely to be excellent. If their expectations are low, productivity is likely to be poor. It is as though there were a law that caused subordinates' performance to rise or fall to meet managers' expectations.[123]

High-expecting leaders hardly need heavy-handed methods of control. They ensure control by empowering people, by creating the Pygmalion effect and by effecting social checks. Needless to say, it is in this way that they also achieve 'uncontrolled' gain in organisational performance.

Old leaders were largely influenced by Theory X; new leaders will have this wisdom of Theory Y.

(c) Learning imperatives

Writing in the early 1950s, novelist R C Hutchinson observed, '… [T]hose who do not think fast in the High Street nowadays may not get another chance in this world to think at all.'[124] Two generations later, today, we are all forced not only to think fast, but also, at times, to rethink the way in which we think and act.

Until the recent past, organisations operated in a rather 'calm' environment. Change took place, of course. But its pace was slow. Moreover, things usually progressed in the same direction. It was continuous change. Organisations were not under pressure to renew themselves. There was more or less a 'good fit' between organisations and the environment in which they did business.

'… [T]he changes are different this time,' says Handy. 'They are discontinuous and not part of a pattern.'[125] Today, organisations have to function in a fast-paced, chaotic, and often threatening environment.

Public-sector organisations are no exceptions. They are also under pressure to come up with the goods. Consider, for instance, how the environment has changed for the Department of Land Reform, one of the traditional departments of the government.

When the Land Reform Programme was launched in 1964, the mission was clear: to redistribute land from big holders to 'no-holders'. The means was also clear: acquire land that is in excess of the official ceiling forcefully, if necessary. What is more, land was abundant. As a colleague recalls, those were the days when he was always hard pressed to meet his yearly redistribution target. So, he had to look around Biratnagar for people who came there from the Hills, and ask them if they did not possess land and would like to be allotted some nearby.

But today, there is no land that can be acquired for redistribution. There are only the landless. Even though the government has recently lowered the legal ceiling for holding land, there is no hope of getting much of this limited resource, for land holdings are averaging out over the years.

Thus, if the Department of Land Reform intends to do something important in today's environment, it needs to reinvent its role, to re-conceive land reform – perhaps as a process of achieving sustainable land use or something – and to change the basic assumptions on which it functioned in the past. Instead of resorting to the power of law, it will have to resort to the 'power of participation'. In the 1960s, it only needed to be a 'good enforcer'; in the 2000s, it also needs to be a 'good facilitator'.

Already, the Department of Land Reform and the Department of Land Revenue have been merged together to form a single department – the Department of Land Reform and Management. In the years to come, unless it successfully repositions itself, this new department will also have difficulty in ensuring its existence.

The argument that a public organisation can escape the dictates of the market-place is proving to be wrong. A public organisation has its own 'market conditions'. Its clients – the people it serves – are more demanding; its competitors – other public agencies, non-governmental organisations, private 'discounters' and so on – are more efficiently competing for resources; and its 'stockholders' – national tax-payers as well as international donors are ever-complaining about the low 'ROI'.

Gone are the days when a government agency could exist by virtue of law or on the grounds of social desirability. Today, a government agency, too, needs to justify its existence in both social and economic terms. We have recently witnessed many agencies, departments or ministries being closed, merged or relegated in some way.

Discontinuous change calls for organisations to transform, and not just change. The difference is clear. Tracy Goss, Richard Pascale and Anthony Athos say, 'A butterfly is not more caterpillar or a better or improved caterpillar; a butterfly is a different creature.'[126]

Discontinuous change does not mean, however, that the future is always unforeseeable. 'What prevents most companies from anticipating the future is not that the future is unknowable,

though of course, in many respects it is, but that it is different,' say Gary Hamel and C K Prahalad.[127]

Paradoxically, it is discontinuities that make the future visible, as well as making it different from the present. Hamel and Prahalad add, 'The future is to be found in the intersection of changes in technology, lifestyles, regulation, demographics, and geopolitics.'[128]

The competence to discern discontinuities and 'find' the future can be acquired by an organisation only when it can learn. According to Peter M Senge, learning organisations are 'organizations where people continually expand their capacity to create the results they truly desire, where new and expansive patterns of thinking are nurtured, where collective aspiration is set free, and where people are continually learning how to learn together'.[129]

As Chris Argyris and Donald Schön tell us, organisational learning can be single-loop or double-loop. Argyris explains:

> Learning is defined as occurring under two conditions. First, learning occurs when an organization achieves what it intended; that is, there is a match between its design for action and the actuality or outcome. Second, learning occurs when a mismatch between intentions and outcomes is identified and it is corrected; that is, a mismatch is turned into a match. …
>
> Whenever an error is detected and corrected without questioning or altering the underlying values of the system …, the learning is single-loop. …
>
> Double-loop learning occurs when mismatches are corrected by first examining and altering the governing variables and then the actions.[130]

Organisational learning is a broad-based process occurring at individual, group and organisational levels. Whatever the level, learning takes place when there is a change in, or reinforcement of, behaviour. Merely behaving as usual is not reinforcement.

Reinforcement means that the usual behaviour is maintained with an added knowledge that it is worth maintaining.

Organisational learning has its own dynamics. When the new, 1992 Co-operative Act rather drastically altered the role of the Department of Co-operatives – from the role of a 'patron' to that of a 'friend' of co-operatives, its various units, especially district-level offices, differed in their response. While some quite impressively assumed the new role, others apparently found themselves out of business.

This suggests that the speed and the spread of learning can vary not only from one organisation to another, but also from one unit to another within the same organisation. Organisations can learn fast – in good time – or slow – too late. Likewise, organisational learning can be pervasive – the entire organisation changes behaviour – or partial – some people or units are influenced, others are not. Thus at least four different patterns of organisational learning – 'A' through 'D' – can be recognised (Figure 3).

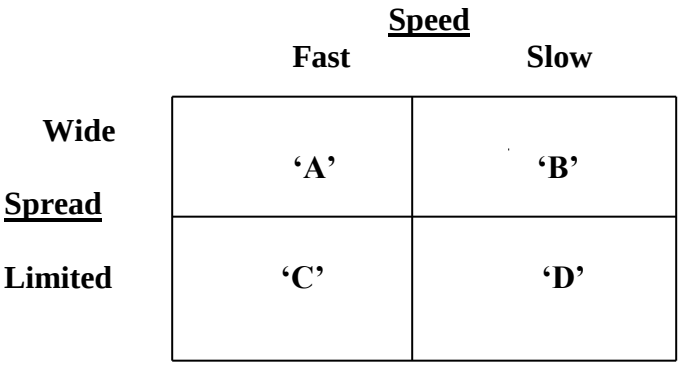


Figure 3: Different patterns of organisational learning

The dynamics of organisational learning are very important. Initially, awareness occurs somewhere – usually at the interface between an organisation and its environment. From there on the light travels across the organisation to be noticed, suspected and seen. There are different possibilities. It may be stopped by an

opaque wall or allowed to pass through a transparent atmosphere. At times, the light may become dim by itself until a new source regenerates it. Whatever the case, the process of organisational awakening, irrespective of the locus of the same, is hardly straightforward.

When the planning team at the Royal Dutch/Shell Group tried to trigger institutional learning with scenarios, they found that each of the steps – hearing, digestion, confirmation and action – took its own time.[131] 'In my experience this time span is typical,' says then team co-ordinator Arie P de Geus. 'It will likely take 12 to 18 months from the moment a signal is received until it is acted on.'[132]

In order to have speedy and extensive learning dynamics, an organisation needs, above all, to recognise 'humanity' - human dignity, human potential and also the fact that 'to err is human'.

When we recognise human dignity, we treat all members of our organisation as equals, eg a secretary is aware that he has many things to learn from a sweeper. When we recognise human potential, we see that a peon is capable of developing into a professional, as well as being in a position to make valuable contributions to achieving organisational ends as a peon. When we recognise 'human fallibility', we take it for granted that 'a mistake is just another way of doing things', as Katharine Graham told Warren Bennis.[133]

Such are learning organisations. They know that people are equal learners, that they have tremendous potential for development and that they learn by making mistakes. To them, learning is part of doing business, a way of life. And people love learning organisations. '… [T]he most compelling reason for building a learning organization is because we want to work in one,' say Senge et al.[134]

By contrast, control-oriented organisations suffer from what Argyris calls 'a puzzling view of trust'. Argyris explains:

> The superior will trust the subordinate as long as errors are not produced. The subordinates, in turn, will feel trusted if the superior leaves them alone. The puzzle is

> that trust appears to exist under the unlikely conditions that errors will not be produced. If errors are produced, the superior will stay away (precisely when he or she intends to intervene and may be of help).[135]

Learning in such organisations is primarily single-loop. Every time faults are found and corrected, frames of reference are taken for granted.

Our leaders often say, 'We need to do in 10 years what others have done in 100 years.' But I have yet to hear one say, 'We need to learn better and faster than others.' I hope we will soon hear our leaders and others say so. I hope we will soon commit ourselves to creating a learning environment everywhere – not only at our schools and colleges, but also at our work-places.

Creating a learning environment in organisations means that anti-corruption initiatives, too, are mistakes-friendly, as well as being sensitive to intentional wrongdoings.

Thus, even if yesterday's organisations applied the threat of uniform punishment to prevent misconduct, today's organisations need to rely more on reward than on punishment to leverage behaviour.

'Tom Peter's ideas are there, of course,' said the then executive director of the Nepal Administrative Staff College some years ago. 'But I think that the question is to what extent we can apply them to our realities.' What this experienced executive director said in response to a comment of a colleague during a training session is often echoed by many. 'This is Nepal', 'our realities are different', 'our people have a different mentality' and so on.

This is a pessimistic view, however. While every culture is unique, certain basic assumptions are shared across all cultures. There are 'universal human tendencies', as Argyris calls them.[136]

Nor does uniqueness mean rigidity. Even if some of our values are limiting in a sense, they, too, are changeable.

Amartya Sen says, 'The exercise of freedom is mediated by values, but the values in turn are influenced by public discussions and social interactions, which are themselves influenced by participatory freedoms.'[137]

Sen does not argue against the unique importance of each culture. At the same time, he disputes the 'specialness' of the so-called 'Asian values (as being generally authoritarian)' and believes that 'different people from different cultures are able to share many common values and to agree on some common commitments'.[138] 'The culturally fearful often take a very fragile view of each culture and tend to underestimate our ability to learn from elsewhere without being overwhelmed by that experience,' adds the Nobel laureate.[139]

Perhaps it is the mentality of our leaders rather than that of 'our people' that forms the real barrier to reform. '… [I]f people are treated consistently in terms of certain basic assumptions, they come eventually to behave according to those assumptions in order to make their world stable and predictable,' writes Edgar H Schein quoting McGregor.[140]

In my opinion, there is no such thing as 'our realities', preventing us from reforming our government. If 'Tom Peter's ideas' are applicable elsewhere, for the most part, they are also applicable to our realities.

In fact, we have new realities everywhere, shifting but similar across cultures. What we need to do is address these new realities rather than lock ourselves into the past by cherishing such a myth (Figure 4).

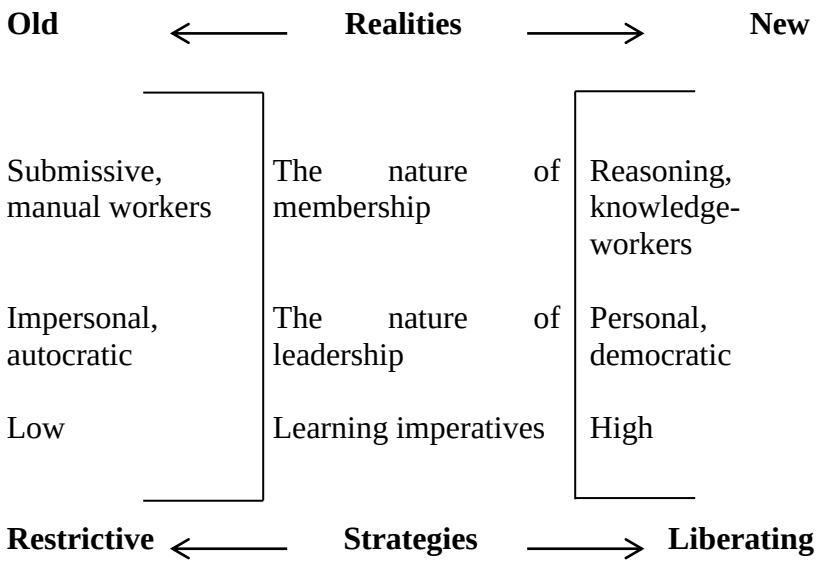


Figure 4: Anti-corruption strategies amidst shifting realities

The new anti-corruption agenda, therefore, is not only a campaign against corruption, but also a quest for performance. The following are its seven strategic elements:

3.1 Delineate corruption and make its control an integral part of managerial responsibility

Executives, administrators, ministers – whatever they are called, broadly speaking, they are all managers. Inasmuch as they share managerial responsibility at various levels, managers are all alike – from the front-line supervisor to the chief operating officer to the chairperson of the Board of Directors in business and from the assistant secretary to the secretary to the Prime Minister in government.

These people are there to run the business of our organisations. They choose policies, prepare plans and put them to practice. They draft parliamentary bills, frame rules and

enforce them. They raise revenue, make expenses and do the accounting. We have placed so many of our resources at their disposal. We have made them responsible for leading our organisations and for delivering the goods.

But when it comes to controlling corruption, rarely are government managers trusted. Anti-corruption action is not part of their normal business. To them, an act of corruption is at best a referral case. Consequently, in the event of their subordinates being involved in corrupt practices, public-sector managers are often in a dilemma: If they refer the case to anti-corruption agencies, they are accused of overdoing it; if they ignore the same, their subordinates take advantage of their inaction.

Moreover, in our culture, we generally consider *hakims* to be guardians of their staff. They are supposed to protect their people if need be. This also forces them to remain passive rather than inviting external investigators to their organisation. Indeed, whenever external investigators are in, a manager tends to save her people by hiding facts or by using her influence. In case she fails to do so, it is typical of her to tell her senior colleagues gathered at her office that she tried her best to protect the fellow but the case was so serious that she could not help it. This sort of 'no co-operation mood' of the affected organisation is also a reason why external investigators do not often succeed in finding evidence against a 'defaulter'.

While external surveillance has created a state of managerial malaise, it has not been effective in controlling corruption, as we also saw in Chapter 2. Therefore, it is time we made managers fully responsible for checking corruption.

'Control from within' has several advantages over 'control from outside'. Some of them are as follows:

(a) Effective prevention

What else could more effectively deter a police officer from demanding *mahinabaris* from restaurateurs than a 'warning circular' of the inspector-general of police?[141] The police officer will think twice before acting in defiance of the same, for this can cost him in many respects.

Managers have many arrows in their quiver. They can prevent corruption by simply placing people right, by doing just-in-time inspection and the like.

The anti-corruption effect of managers' power is conspicuous even today. If you are a chief district officer and want to prevent your staff from taking tips, you surely can. But if you are a land revenue officer and also want to prevent your staff from taking tips, you are likely to make your own position precarious. Even if you are clean, you tend to be 'uncontrolling'. 'I can't say for sure about others around here,' said a director-general. 'But as for me, I'm totally clean.'

When managers will have the power to take on defiant subordinates, it will have its own effects. Perhaps only once or twice in a year will a typical manager (eg the inspector-general of police) need to deal with a case of corruption in the manner of an anti-corruption agency. For the most part, a bit of alertness will do.

(b) Timely detection

Managers have access to information about all aspects of their organisation. They know their people very well. They are familiar with the nature of work everywhere. For these reasons, they are well placed to detect corruption across their organisation. Better still, they can do so more quickly and conveniently than an external vigilance authority.

(c) Convenient learning

'Drive out fear, so that everyone may work effectively … .' This is the eighth point of W Edwards Deming's famous 14 points for the transformation of management.[142]

Fear is the great barrier to learning in our public-sector organisations. Today, if people are learning, they are doing so at their own risk. Learning is unnecessarily inconvenient – perhaps even an act of folly for many. This is because the usual wording of our anti-corruption legislation coupled with the typical way in which anti-corruption authorities handle corruption cases offer no guarantee that people are not in trouble even if they act

in all fairness in spite of the fact that rarely, if ever, are genuine mistakes punished, as we said in Chapter 2.

One very practical way of offering such a guarantee is to vest the power of anti-corruption action in the manager. Managers can better appreciate the circumstances in which their subordinates acted and are in a better position to ascertain whether they acted in good faith or with ill intention. For their part, people working down the line can rest assured that, if they acted squarely and took a chance, their superiors would forgive them even if things went wrong. Fear will not loom so large and people will feel liberated.

This will greatly encourage innovative thinking, risk-taking and learning. In fact, there will be a dramatic turn-around in our public-sector organisational life. No longer will the letter of law take precedence over the spirit of law. Nor will the field staff have to bother about the headquarters' approval in writing all the time; instructions over the telephone will do in most cases.

But how can we ensure that 'managerial activism against corruption' works in practice?

First, of course, we need to delineate corruption by defining it as a betrayal of organisational trust, as we did in Chapter 1. Then two types of alignment will be necessary: legal alignment and structural alignment.

Also, we need to identify our unit of analysis. The choice of the unit of analysis is very important. For instance, if we consider the entire system of the executive branch of government as our unit of analysis, many things will appear to be already in alignment. Likewise, if we choose a small part of this system, eg a district-level office, it will not be a viable unit of analysis.

An idea would be to take a managerially self-contained subsystem as a unit of analysis. A managerially self-contained subsystem is an organisation that is self-governed for all practical purposes. Ministries, departments, constitutional bodies, corporations, DDCs, VDCs and municipalities are some common examples. Constitutional bodies are governed as

provided for in the Constitution of the Kingdom of Nepal 1990. Corporations have their own statutes as well as governing boards. DDCs are governed by the District Council as specified in the Local Self-Government Act 1998 (2055 VS). The same is true of VDCs and municipalities.

Ministries and departments do not have governing boards, of course. But in view of their size, functional independence and the level of administrative authority vested in them, they, too, can be identified as managerially self-contained subsystems.

Treating a geographical area, eg a district or a region, as a unit of analysis will not serve our purpose, however.

Now, legally, managers, and nobody else, should be vested with the power to investigate an allegation of corruption and also to decide if the act in question needs prosecution. Thus only the Prime Minister should order an inquiry into a corrupt practice involving a minister. The minister, in turn, should be in a position to do so in the case of a secretary. Then there should be the secretary exercising the same power over a director-general. Finally, the director-general should also be empowered to investigate a case of corruption involving the members of her staff.

However, it may be worthwhile to require the concerned manager to act with the prior consent of his superior, so that uniformity can be ensured throughout the subsystem.

This will be an ideal alignment. The process of such an alignment is likely to take quite some time, though. Till then, two types of interim alignment may be made.

Initially, the Commission for the Investigation of Abuse of Authority can take the initiative in delegating its power to secretaries at ministries and constitutional bodies. At present, the Commission has delegated its power to the chief district officer. Now, the Commission will have to take its power back from the chief district officer. As soon as the Commission is satisfied that this can work, it may decide to delegate its power to the heads of other managerially self-contained subsystems or subsystem managers.

In whatever way it does, the Commission may be advised to make managers fully responsible for acting against corruption. This also means that, so long as it has delegated its power to the subsystem manager, it should not enter the organisation on its own.

This is crucial because managerial activism against corruption takes place only when there is nothing like external back-up. Therefore, the Commission should not act in default of, or against, those whom it has delegated its power. If it needs to do so, it may be advised to take its power back from the concerned subsystem manager first. Even in that case, its investigation should not cover what happened during the time in which the subsystem manager acted using its power and the same should be made clear to all – the subsystem manager and the members of her staff – in the first place. When a subsystem manager is aware that the Commission can question her act, she will not act in 'manager-like fashion' and managerial activism against corruption will not work.

Delegating the power to appropriate subsystem managers in this way will not render the Commission weak. It will actually facilitate its work, enabling it to check corrupt practices throughout such a large network of government and other public-sector organisations.

Subsequently, the role of the Commission itself may be redefined. We will return to this as we go along. We will also take up other issues of legal alignment later as they will be relevant. For now, perhaps a comment on structural alignment is in order.

Managerial activism against corruption calls for anchoring all checks to the subsystem manager. In other words, if checking and balancing mechanisms are desirable, they should be built internally, and not externally. The internal auditor, for instance, is best placed at a ministry or a department. In fact, the Accounts Section of a ministry or that of a department can do the internal auditing of the entire network of the ministry or the

department. (Whether we at all need internal auditing is another matter, which we will consider later.)

Building checks internally means many things at various levels. For instance, if the Nepal Food Corporation needs a committee for fixing the price of paddy, it forms one to be chaired by its zonal manager, and not by the chief district officer. If *chhadkes* need to be done at the District Education Office, they are done by the district education officer and nobody else. More specifically, checking takes place as part of the normal managerial process within a subsystem, and not across subsystems. Normally, primary checkers also do the work of secondary checkers.

For example, the Ministry of Population and Environment does not send its people to Customs Check-points to verify whether ozone-depleting substances are being imported in excess of the quota for a year. Instead, Customs Check-points see to it that such substances are not imported beyond the limit specified by the Ministry of Population and Environment. If this needs to be verified from time to time for one reason or other, the Department of Customs does so in the course of its regular review. In other words, the postman has the power to cut parcels open (Box 12).

Earlier, we said that spatial units, eg districts or regions, cannot serve our purpose as units of analysis. Now, I may add that the old idea of unified district administration or the new idea of administrative co-ordination at the regional level essentially involves external checks and, therefore, runs counter to structural alignment and managerial activism against corruption. A judicious choice would be to appropriately anchor local administration to local elected bodies. We will touch on this later.

Managerial activism is the only viable option for fighting the all-pervasive problem of corruption in our country. However, three concerns need to be addressed here: (a) the concern about 'privatising' government, (b) the concern about doing justice

with the victim and (c) the concern about the trustworthiness of our managers.

(a) The concern about privatising government

The first concern is mainly about 'managerialism', a term sometimes used by writers on public administration to mean predominance of business norms in public spheres. While calling for de-bureaucratising government, many maintain that government cannot be run just like a business. David Osborne and Ted Gaebler say:

> Business leaders are driven by the profit motive; government leaders are driven by the desire to get reelected. Businesses get most of their money from their customers; governments get most of their money from taxpayers. Businesses are usually driven by competition; governments usually use monopolies.[143]

No doubt governing conditions are not the same as 'trading' conditions. But managerial functions and processes have more to do with people than with the nature of an organisation. All managers – public, private and non-profit – need scope to make a difference. A manager in a bureaucratic office is like a worker in an assembly-lined factory. Just as conveyor-belts have alienated workers, so, too, have unnecessary controls alienated managers.

Senior civil servants are often called bureaucrats. To me, that is denigration. There are no bureaucrats around here or elsewhere. Whom we call bureaucrats are in fact managers – public works managers, market-place managers, social change managers. So there is nothing wrong with managerialism.

Even the gap between business and governance is narrowing over the years. There are forces acting on both sides – making business more public and government more businesslike.

Private organisations are becoming purposeful. Sumantra Ghoshal and Christopher A Bartlett found in their sample of companies that 'the purpose transcended the company's narrow

self-interest and was linked to broader human aspirations worthy of long-term pursuit'.[144] The authors also call for converting 'the contractual employee of an economic entity into a committed member of a purposeful organization'.[145] Today, people need socially meaningful work - not only in government or non-profit organisations, but also in private organisations. 'People report the need to feel that their organization stands for something important,' says Robert H Waterman, Jr.[146] Waterman describes how the realisation of people's need to believe in what their organisation stands for is changing the world of business:

> AES (formerly Applied Energy Services) is in the business of producing cheap, clean, non-nuclear power. In 1982 the company didn't exist. By 1992, shortly after it went public, the company had a stock-market valuation of over a billion dollars.
>
> … [T]he company's founders never set out to build a billion dollar company. Rather, they wanted to build an enterprise in which they and all their people could take pride. Social responsibility and having fun in work are among the values that have propelled this company since its beginning.[147]

Likewise, public organisations are required to give value for money. We have already seen how public organisations are facing competition under their own market conditions.

Perhaps the difference between business and governance is oversold. Already in 1887, as we may recall, Woodrow Wilson had said that 'the field of administration is a field of business'.[148] More than a century later, Handy shares the view of the father of administration when he writes:

> Every organisation is, in practice, a business, because it is judged by its effectiveness in turning inputs into outputs for its customers or clients, and is judged in

> competition against its peers. The only difference is that the 'social businesses' do not distribute their surpluses.[149]

Thus, if businesses need to be competitive, governments also need to be competitive; if people can be offered meaningful work in a private organisation, they can also be offered meaningful work in a public organisation; and, if tens of thousands of shareholders can trust their managers in business companies, hundreds of thousands of citizens can also trust their managers in government agencies. So long as there is democratic control over them, there is no risk involved in empowering managers.

(b) The concern about doing justice with the victim

Now, will it be reasonable for us to believe that the victim of corruption will get justice in the absence of anti-corruption authorities?

The victim of corruption is one who has to pay for, or be deprived of, what one is entitled to. If a contractor has to bribe a project manager for awarding a contract even though his bid is the best of all, the contractor is a victim of corruption. But if a contractor bribes a project manager into awarding a contract in spite of his bid being inferior to that of a competitor, the contractor is not a victim of corruption. He is actually a beneficiary of corruption. The victim in this case is the competitor whose bid was rejected unfairly. The ultimate users of the contractor's output may suffer as well. But for the sake of simplicity, second-order victims may be ignored in many cases.

Under the present system, the competitor can lodge a complaint against the project manager with the Commission for the Investigation of Abuse of Authority. (The competitor can lodge the complaint with the director-general supervising this project manager, too, but the director-general will not know what to do with it, as he is not so empowered.) Then the Commission can investigate the matter and, subject to the evidence thereof, prosecute the project manager and others involved therein. But will the director-general also do the same

on receipt of such a complaint after he has been vested with the power of the Commission?

While the director-general is more likely to find the truth than the Commission, the chances are that he will stop short of prosecuting the project manager and others involved therein. This is because managers are more concerned about moving things than being entangled in a case or two. Maybe the director-general in this case will give a warning to the project manager and others involved therein and dismiss the case right there. In fact, we can foresee that our managers will handle nearly all common cases of bribery in this manner.

The question is: Will that suffice?

This question is not easily answerable, of course. Yet I think that we will not be doing the victim injustice, either.

First, even though the present system seems to be just, the avenues to justice in it are not accessible to such victims. People rarely bother about making complaints about such cases with the Commission, a third party based elsewhere.

Second, punishment is always symbolic. We do not apply the tit-for-tat principle to punishment.

Third, suffering the humiliation of having to admit that one was wrong is not lenient punishment for one, anyway.

Thus leaving managers free to decide whether to prosecute corrupt subordinates or punish them otherwise will not deprive the victim of justice. Indeed, the promptness with which managers act will ensure that justice is not delayed. Also, it is only in first one or two cases that managers tend to be lenient. With every repeated case, they will grow unforgiving.

More important, ‘managerial justice’ does not simply mean punishment to the offender; it also means ‘reward’ to the victim. In the case of the contract, for instance, the director-general will order the project manager to award it to the competitor as soon as he has given the warning to him.

When the Commission prosecutes corrupt people, they all may end up in gaol but the victim usually does not get the ‘contract’. All the relevant documents are seized and the whole

process of awarding the contract is started all over – often months after the disturbance.

We may also recall here that, in many cases, recourse can pre-empt corruption. With managers ready to hear them, citizens can save themselves from being victimised in the first place. Often a mere threat to complain will do.

(c) The concern about the trustworthiness of our managers

Finally, what if our managers turned out to be incompetent or 'looters', or unduly influenced or influential, themselves?

This is a moot question, of course. Many of us would argue that, if our managers had been reliable, we would not have thought of bringing external control to bear on them in the first place.

Managerial competence is a serious concern. Developing managers is actually one of our new anti-corruption strategies. We will see what we can do on this later.

On the concern for the cleanliness of our managers, we may recall that often the exception, and not the rule, provided the grounds for external control. Thus external controls were put in place while the majority of our managers were still sincere and commanded 'control' over their people in terms of making them refrain from wrongdoings.

More important, the proportion of clean managers is not as low as is generally feared. Even if we assume that at least 25 per cent of our managers are clean, at least 25 per cent of our organisations will be subjected to an effective clean-up campaign as soon as we leave everything up to them.

A quarter of our organisations will mean a lot and we are talking about the minimum. But what about the remaining three quarters of them? Will the situation exacerbate there? I believe not.

The leading quarter of our organisations will provide a point of reference for all stakeholders. When all organisations appear to be similar, stakeholders find themselves in a fog. But when some – in fact, many – organisations will be taking a lead in

serving them sincerely, they will start demanding similar initiatives from other organisations as well.

Change in the behaviour of the same organisation will also be noticeable under different managers. If a branch office of the Agriculture Development Bank extends 'clean loans' to farmers under minister 'A' and then reverts back to the previous condition under minister 'B', farmers, including the rank and file of his own party, will blame minister 'B' directly. Exposed to the risk of losing his image among his voters and supporters, minister 'B' will be bound to check corruption in such cases. So, the 'from-the-people' form of corruption will very probably decrease even in the remaining three quarters of our organisations.

'De-harnessing' of managers is also likely to run counter to corruption in its 'from-the-coffer' form. When corruption is conspicuous in terms of attributability, anti-corruption forces, both within the organisation and beyond, are likely to be activated. As a result, the nearest clean manager up in the hierarchy will quickly come under pressure to do something about it.

In any case, the power of trust will be at work (Box 10). Unfortunately, trust is not the focus of scholarly attention. 'The word trust does not even appear in the indexes of most books on public administration, management, or policy,' says Craig W Thomas. 'There are some notable exceptions, of course.'[150]

Apparently predominant is Robert Klitgaard's famous equation: **C = M + D – A**. According to Klitgaard, C (corruption) is equal to M (monopoly) plus D (discretion) minus A (accountability). 'Whether the activity is public, private, or non-profit, whether one is in Britain, Brazil, or Brunei, one will tend to find corruption when someone has monopoly power over a good or service, has the discretion to decide whether or not you receive it and how much you get, and is not accountable,' asserts Klitgaard.[151]

Part of the Klitgaard equation, ie associating corruption with discretion, is antithetical to trust, though. Thomas dwells on three conceptions of trust:

> These conceptions are (a) fiduciary trust, which is notable for asymmetric relationships and attendant opportunities for malfeasance; (b) mutual trust, which develops between individuals who repeatedly interact with one another; and (c) social trust, which is embedded within institutions we know in common and take for granted.[152]

Thomas then considers the following three ethical standards for public officials:

- **Uniform treatment**, ie following uniform rules and standard operating procedures that (attempt to) treat everyone equally

- **The golden rule**, ie treating each citizen as they would have other public officials treat them under similar circumstances

- **Care**, ie taking the specific interest of each citizen into account as a basis for action.[153]

Stating that the first two ethical standards ignore the specific, individualistic concerns of citizens themselves, Thomas sees the need for considering care as an appropriate ethical standard.[154]

'Procedures ensure impartiality in service delivery,' claimed a secretary at a seminar. Unfortunately, real-life cases are not always amenable to procedures. Not only are there exceptions, but common cases also often fail to fit into procedures. Sticking to procedures can be unfair to all genuine service-users whose case is not of the ideal type. Discretionary powers do not

necessarily lead to corruption in such cases; they can actually 'ensure impartiality in service delivery'.

'Rule-bound behaviour presents a gauze of neutrality, the appearance of fairness, but it stifles the ability of public officials to care for the individual citizens with whom they interact,' says Thomas. 'Examining fiduciary trust from the standpoint of care therefore entails giving agency employees greater discretion to consider and respond to the needs of each citizen with whom they interact'.[155]

Concerns over reduced administrative discretion have been expressed all along. For instance, in its 1983 report, the National Academy of Public Administration in America concludes that 'the role of the Federal manager is being seriously undervalued, and that the Federal management systems have become so burdensome and constraining that they reduce rather than enhance management effectiveness'.[156] The report goes on to make extensive recommendations for the reform of various management systems, especially in ways that would return a degree of authority and discretion to the individual manager.[157]

Even earlier, Peter Self said, 'Administrative discretion utilises precedent where convenient, but is also sensitive to changes of political climate, and fills in the limitations of established rules and policies with pragmatic ideas of fair treatment and common sense.'[158]

Thus only with reasonable discretionary powers and without the 'tyranny' of external control can managers manage and get to grips with corruption as well. And only then can we really hope to bring down the problem of corruption to the minimum.

This is not just wishful thinking. This has been a reality in our private sector. For many years during the post-*Rana* period, this was a reality in our public sector as well.

Overall, then, we can rely on our managers to be sincere and discreet.

And will there be the possibility of undue influence? I, again, believe not.

One type of undue influence can come from the subordinate to the superior by virtue of his being the superior. As we said earlier, in our culture, *hakims* are supposed to be guardians of their staff. This role conflicts with their role as punishers, with the result that they are unnecessarily sympathetic to their subordinates.

While managers are unlikely to be as severe as external investigators, I think that there will be 'a sense of betrayal' tempting them to remain firm.

When the district agriculture development officer trusts a junior technical assistant and expects the latter to be in the field, helping farmers with integrated pest management, but the junior technical assistant sneaks out of there, the district agriculture development officer will have a sense of betrayal. I do not think that the district agriculture development officer will tolerate it. This is simply human nature. Today, she is tolerating it because she does not trust the junior technical assistant as she has not been trusted herself in the first place. When the district agriculture officer will be trusted in all ways and she will trust the junior technical officer in the same spirit, there will be a sense of betrayal.

Another type of undue influence can come from the superior to the subordinate by virtue of his being the subordinate. Here, too, the hierarchy of superiors will safeguard against undue influence.

When a local development officer does a favour for his regional director because of the pressure put on him by the latter and the secretary at the Ministry of Local Development comes to know about it, the secretary will take hold of the regional director rather than the local development officer.

In fact, this is the beauty of managerial activism against corruption. With external investigators, the regional director could have easily avoided the trouble by denying any awareness thereof, for external investigators can act only on the basis of evidence. Managers also need evidence, but at least in managerial terms, they can act on the basis of their conscience as well.

Thus, if the local development officer tells the secretary that he awarded a consultancy project involving an evaluation study of the Village Self-help Programme to an incompetent person under the influence of the regional director and this person is a relative of the regional director, the secretary will not need to verify whether the regional director has signed the memo or not. Maybe he quickly checks it with one or two members of the staff of the local development officer. But as soon as the secretary is convinced that the real culprit was the regional director, he will point up his finger at this man, even though he will lack evidence for prosecution.

If external investigators were in, probably the local development officer would have been the scapegoat. Today, many people have actually been scapegoats. With the manager, one can hope that the 'victim' is not victimised. Moreover, the secretary is likely to tell the local development officer that he does not need to care for any undue pressure from the regional director or anybody else. This will boost the morale of the local development officer and other sincere people down the line.

But will it happen so predictably given our experience of ministerial interference?

I can only offer a banal answer to this question: probably yes, probably no.

Suppose that this regional director is actually an acting regional director and, as part of his effort to place this not-so-trustworthy subordinate under close supervision, the secretary relegates this man to his usual position of deputy regional director and seconds a clean officer from the ministry to assume the responsibility of the regional director. Suppose further that this acting regional director now approaches a political friend of the minister and through him the minister asking for his reinstatement on the grounds that he had worked for the cause of the minister's political party during his student life.

More often than not, the minister will order the secretary to reverse the decision and he will quietly do so. Nobody in the ministry will dare to oppose the decision openly; be that as it

may, the press will cover the story, bringing it to the notice of the Prime Minister.

Now, whether the Prime Minister will simply ignore it or do something about it will depend on (a) her own 'cleanliness' and (b) her power position vis-à-vis her ministers, party colleagues and others. The appropriate solution in the first case is to encourage the democratic process, while the same in the second case is to empower the Prime Minister. This leads us to another strategy to do away with corruption.

Box 9: Staying Away from Corruption: Some Rules of Thumb

Criteria	What is not acceptable	What is acceptable
Vouching possibility	If you cannot sign the receipt (eg a commission on official purchase).	If you can sign the receipt (eg an out-of-hours sitting allowance).
Transparency	If you get it having concealed it (eg you get to the airport by car, do not disclose it and include taxi fare in your travel bill).	If you get it having claimed for it (eg you interpret your organisation's travel rules so liberally that your total claim is more than what it would have been otherwise).
Quid pro quo	If they expect you to do a favour for them (eg a fish farmer brings you some fish and quietly asks you to recommend her fish pond expansion project for funding by the Agriculture Development Bank).	If they do not expect you to do a favour for them (eg a fish farmer brings you some fish and proudly asks you to have a taste as proof of the success of her new fish pond project, for which you provided technical backstopping).

Nature of value	If it is valuable in material terms (eg a gift of a gold ring).	If it is valuable in non-material terms (eg a gift of a Sai Baba ring).
Frequency	If you do it over and over again (eg long-distance personal calls over the official telephone).	If you do it in rare cases (eg long-distance personal calls over the official telephone).

3.2 Empower the Prime Minister, encourage the democratic process and establish institutions of authority upward

Do we need to empower the seemingly most powerful person in the country? I believe yes.

Our present Constitution was drawn up in the aftermath of the popular movement of 1990 which put an end to the 30 years of the *Panchayat* era. As the *Panchayat* regime was characterised by executive dominance, it was only natural that we provided for all types of check in order to make sure that the executive power of the State was not used indiscriminately.

Broadly speaking, therefore, constitutional provisions and also the general line of their judicial interpretation have apparently put our Prime Minister at a disadvantage vis-à-vis other institutions of democracy.

The civil society groups, too, do not appear to be friendly to the Prime Minister. There are very few independent intellectuals who are willing to speak up for the Prime Minister whenever there is a row over her decision.

What could be more disappointing to the Prime Minister is that even her own party colleagues tend to be fair-weather friends. This is especially true of a party which is divided into rival factions. In such a situation even the Prime Minister of a majority government is as weak as the one leading a coalition government. There have also been instances in which the

deputy prime minister or a senior minister is more influential than the Prime Minister.

The Prime Minister is the leader of the country. Henry Kissinger says, 'The task of the leader is to get his people from where they are to where they have not been.'[159] When we elect the Prime Minister, we do not expect her to play by the rules; we expect her to break the rules and lead us 'to where we have not been'.

In a democracy the Prime Minister is a force of democracy herself. A lame-duck Premier in a democracy is no better than an all-powerful Premier in an autocracy. This is more so when she has to fight widespread corruption and face formidable development challenges.

It is therefore imperative for us to empower our Prime Minister. Empowering the Prime Minister does not mean 'impoverishing' the other two branches of the government, either. Just as we are proud of our democratic Parliament and independent judiciary, so, too, can we be proud of our empowered Prime Minister.

In my opinion, the three tests of an empowered Prime Minister are as follows:

(a) She is free to act subject to democratic control

'The great freedom in America is the freedom to fail – and try again and again,' says Richard Reeves.[160]

If we want our Prime Minister to be entrepreneurial, we must be prepared to let her free to act and 'free to fail'. This means that we have to promise her that we will never legally question her integrity in connection with an act she has performed having considered the same as part of her duty. Of course, we will go to court to challenge the 'constitutionality' of her act but we will not go there to challenge her integrity.

If we have to question her integrity, we will do so at Parliament and in public. We will summon her to appear before our parliamentary committees, ask her to argue the case for her

choice and also move a no-confidence motion against her if need be.

Press-reporters will pose questions to her, academics will write columns on her deeds and we will also take to the street chanting slogans against her. Yet, unless she commits an act of crime, we will refrain from handcuffing her. To put it simply, our Prime Minister will have the privilege, by which we may not bring a charge of corruption against her in court.

Immunity from prosecution for corruption is not new to us. The Commission for the Investigation of Abuse of Authority cannot take anti-corruption action against the heads and members of many constitutional bodies as well as the Chief Justice and other justices of the Supreme Court by virtue of Clause (A) of the proviso to Article 98(1) of our Constitution. We will have to extend the same privilege to the Prime Minister until, of course, we have redefined the role of the Commission itself.

Protecting the Prime Minister in this way will not make her wild; it will actually make her more responsible. Besides, her freedom to act will always be subject to democratic control. Also, her act will still be liable to judicial review. If the Prime Minister betrays us and makes money by fair means or foul, Parliament will bring her to account. If her act amounts to a violation of the constitutional procedure or that of our fundamental rights, the same will be declared unconstitutional on judicial review.

When we leave the Prime Minister free to act, we should not require her to be entangled with trivial procedures. In other words, we should allow her to act straight if she so desires – provided that this does not amount to a breach of vital procedures, tentatively defined as procedures laid down in the Constitution and other procedures that are indispensable for ensuring the rule of law.

Thus, when the Prime Minister violates the procedure laid down for the ratification of a treaty involving the use of natural resources, we will be concerned, and so will we be when she acts in defiance of the procedure prescribed for issuing the

citizenship certificate. In such cases, we will seek judicial remedy. But we will not mind if, for one reason or another, the Prime Minister negotiates a contract with a world-class contractor without inviting bids globally. We will take it for granted that she must have done so in the interests of the country. We will do so just because she is our Prime Minister and we all are proud of her.

A free-to-act Prime Minister can order her cabinet colleagues or others in her administration to do what she deems fit to solve a problem. This means that, if a minister, or a civil servant for that matter, acts as instructed by the Prime Minister, the minister or the civil servant will also have the same immunity from prosecution as the Prime Minister in the case of the act in question.

(b) She is well placed to clean up her administration

'Unless the people at the top are clean, those down the line will not be clean.' This is a common observation we hear. The top-level people certainly need to be clean but their cleanliness will not, on its own, drive out corruption. We have seen how a corrupt secretary has taken advantage of a clean minister and how a clever minister has acted contrary to the wishes of a straightforward Prime Minister.

What we need, therefore, is a clean Prime Minister who is also in a position to get to grips with the problem of corruption. This calls for enabling the Prime Minister to institute the process of screening-in-and-out, a managerial process of marginalising untrustworthy people.

The process can work vertically (in terms of upgrade) and also sideways (in terms of reassignment). It can involve reward (decorations, development opportunities, etc) and also 'no reward' (prolonged subordination, implicit temporary deprivation of development opportunities, etc).

Screening-in-and-out is a corrective process, ie those who are screened out once can correct themselves to be screened in subsequently. The process is self-corrective, too. Self-correction usually takes place in two ways. First, those who are mistakenly

left out are brought in as soon as the manager realises his mistake. Second, those who intentionally corner their people risk being cornered themselves by their overseers. In addition, modern organisations have powerful internal dynamics. Today, managers need to justify their decisions. This also helps ensure an even-handed process of screening-in-and-out.

Screening-in-and-out is not the same as *pajani*. *Pajani* was the process of 'expelling' people without opportunities for correction. Screening-in-and-out is the process of marginalising people with opportunities for correction.

Left alone, a straightforward Prime Minister will form the Cabinet of her own choosing – picking up straightforward colleagues. A sincere minister will find a sincere secretary. A clean secretary, in turn, will look for a clean director-general. In this way, screening-in-and-out will take place everywhere.

'How long will it take to clean up the whole administration through this process of screening people in and out?' My Namibian friend asked me once. 'Maybe, not more than a full term of a democratic government,' I replied tentatively. Subsequent reflection on what was then an inchoate idea has led me to postulate that it will work dramatically fast.

We have seen this process work perfectly in private organisations. Among government organisations, the Ministry of Home Affairs used to be an active 'screener' in the past, even though its screening then was apparently based on certain ill-defined standards of competence rather than on cleanliness.

However, I know of no public-sector organisation where this process is at work at present. If there are none, one reason for this is that we have forced our Prime Minister into a crouching position by unnecessarily legalising our administration in the name of merit, impartiality, accountability and so on.

The rule of law is a *sine qua non* for democracy. The rule of law means the supremacy of law. It also means that every person is subject to the ordinary law of the land. But it does not mean that we have to legalise everything in administration.

The legalistic bias among us is in conformity with our belief in systems. To us, systems often symbolise fairness, orderliness

and efficiency. We tend to consider systems, or rather 'systematisation', to be inherently good.

Richard Tanner Pascale and Anthony G Athos define systems as 'proceduralized reports and routinized processes ... '.[161] Systems are essential, of course. In fact, one 'S' in the famous 7-S framework used by Pascale and Athos[162], and Thomas J Peters and Robert H Waterman, Jr[163] in their very successful management books of the early eighties represents systems. But systems are useful only to the extent that they are in aid of people.

In one of our early computer classes, our tutor left all of us wondered for a while by asking to switch the CPU as well as the monitor on and off and hit the keys on the keyboard indiscriminately. This intelligent English lady wanted us not to be afraid of the machine and to feel that we were in charge of it. Systems are also like the machine – to be used but not to be afraid of.

People always count more than systems. Ghoshal and Bartlett have therefore called for moving beyond systems to people.[164] Waterman uses an even more impressive phrase: 'systems that set people free'.[165] Today, it is the creative leadership of our Prime Minister, and not just her adherence to 'dire' systems, that will make the real difference in our national performance, in our farms and factories.

Unfortunately, we are overdoing systems. These systems have often the effect of rendering political leadership helpless. President John F Kennedy once told a caller, 'I agree with you, but I don't know if the government will.'[166]

Also, interestingly, many of such systems are either proposed or approved by the Council of Ministers.

As it happens, initially the Council of Ministers wants to reform administration and forms a commission or a task force to advise on the same. Then the commission or the task force reviews the existing situation and presents its report with proposals for putting new systems in place or reforming the existing ones, as necessary.

Usually the report of such a commission or a task force is overarching and the Council of Ministers is in a fog. The report is then passed on to civil servants to sort out what can be done immediately. They work out and put forth the first-phase reform proposals.

The Council of Ministers takes it for granted that the report and also the proposals drawn from there are in line with its original desire for reform and approves them. Later, while few of these systems prove to be corrective, the overall result is found to be disappointing, tempting the Council of Ministers to make a move afresh – thereby completing the normal 'system cycle'.

There are many reasons for this disappointment. First, we have always advocated administrative neutrality and, therefore, want our political leaders to keep themselves aloof from administrative affairs. This leads to a situation where systems are designed and put in place to an absurd extent. Second, the career-people who often work out the first-phase reform proposals (the second-phase ones are almost always forgotten afterwards) fail to appreciate the 'political intent'. Thus the chances are that trivial issues are addressed first.

Our attitude towards political leadership is evidently negative. In common parlance 'doing politics' means seeking to influence others, gain power or serve one's own interests by fair means or foul. We, therefore, demand de-politicisation of many spheres of activity. We also call for keeping our national issues above politics, or rather, above party politics. This is not fair. Sometimes, I wonder about our demand for de-politicisation in this way: 'Isn't it "politics" in itself?'

A senior colleague once told me the difference between political and administrative leadership. According to him, political leaders are bold, dauntless and, therefore, initiators of change. By contrast, administrative leaders tend to play by the rules and maintain consistency. They are therefore preservers of values. This experienced administrator believes that the difference is mainly due to the very fact that political leaders

have the popular mandate, while administrative leaders lack the same.

For a year or two now, we have been talking about the 'Prime Ministerial System'. While this has been a positive development, our meaning of the Prime Ministerial System is apparently limited to recognising the Prime Minister's constitutional prerogative to dissolve the House of Representatives and go to the people for fresh mandate. In my opinion, the term means much more than this: the Prime Minister's prerogative to face no charges of corruption, the Prime Minister's prerogative to face no restrictions of her party's 'apolitical' instructions and the Prime Minister's prerogative to hit no walls of archaic systems. Rather than the Prime Minister's prerogative to dissolve Parliament, it means the Prime Minister's prerogative to face Parliament.

Jawaharlal Nehru is often criticised for his aversion to creating permanent tribunal for holding enquiries into charges of corruption involving his ministers. But this renowned scholar and statesman knew the value of the Prime Minister's prerogative to face Parliament and nobody else when he said:

> Either this Parliament believes in the personal integrity of members of the government as a whole, or my personal integrity, or it does not: if it does not, it has a right to say so and even remove me from office.[167]

Devoid of the political feel, administration is at best good day-to-day administration, tending to maintain the status quo. The idea of system-led administration is of little avail at a time when we need to accelerate the pace of our socio-economic transformation. Today, we need to give our Prime Minister the necessary leeway in mobilising administrative personnel as well as other resources.

Drucker also lays stress on the need for politics in government. As early as 1942, the sage of management stated:

> There is no greater mistake than to take the politics out of government. If it is done by making a civil service bureaucracy omnipotent and by entrusting political decisions to the expert selected by the merit system of competitive examinations, it leads not only to the government of the least fit but straight to the tyranny of the printed form.[168]

More recently, Hal G Rainey observes:

> The debate over the relation between politics and administration is as old as the academic field of public administration in the United States. Yet it has never been adequately resolved… . An emphasis on the distinction earlier in the century has given way to the overwhelming evidence that politics and administration are not separate.[169]

Nor do we need to 'systematise' everything in legal terms. We can and should systematise many things in terms of convention. Only then will our Prime Minister be in a position to institute the 'system' of screening-in-and-out.

This means many things in practice, not least the 'de-systematisation' or 'personalisation' of such personnel matters as placement, transfer, secondment, training and promotion to a reasonable extent. In other words, our Prime Minister needs to be free to entrust civil servants with the necessary responsibilities and also to reward them in a reasonable way.

More specifically, civil servants should be employed on condition that they cannot have judicial recourse unless they are removed or dismissed from service. I think that the freedom of employment of the citizen as guaranteed by Article 12(2) of our Constitution is not encroached on in the case of a civil servant so long as he is not arbitrarily recruited or removed or dismissed from service. Personnel matters between hiring and firing can be allowed to be governed by the terms of the contract between

the employer and the employee as embodied in the civil service Act and the Rules framed thereunder.

The wisdom of overprotecting the civil servant has now been questioned in India, too. S S Gill, for one, recommends 'the scrapping of Article 311 of the Constitution which gives more protection to Indian civil servants than available in any Western democracy'.[170] 'Government officials do need adequate protection if they are to discharge their duties fearlessly,' adds the former civil servant. 'But this protection should not give them so much job security as to render them unaccountable for their misdeeds.'[171]

(c) She is left to reflect on her act

An empowered Prime Minister is not forced to follow advice. Instead, she is encouraged to take responsibility for her act.

Thus the political party in power does not, for instance, dictate to its Prime Minister who should be included in the Cabinet. In return, it expects the Prime Minister to take responsibility for the work of her ministers, corruption in her administration and the resulting loss of the party's popularity.

Can political parties afford to leave their Prime Minister go her own way until she has the time to look back and the will to realise that it was all wrong? I think that they can and should do so. To intervene in the business of the Prime Minister is to share her responsibility. But then, the Prime Minister cannot be held fully responsible for her act.

To be sure, consensus, conciliation and compromise are as necessary for the Prime Minister as giving a sense of direction to her administration. But the Prime Minister is likely to be conciliatory and compromising, anxiously seeking to build consensus both within her party and beyond, when she is left alone. Once again, it is by trusting their Prime Minister that political parties can make her more responsible.

Of course, there are times when political parties can no longer trust their Prime Minister. Should it be the case, parliamentary parties may pass a no-confidence motion against

her. Otherwise, it is in the interests of the political party, and that of the country for that matter, to provide a sitting Prime Minister with the necessary freedom to lead the government.

Besides, the Prime Minister also needs the opportunity to learn by making mistakes. Thus the cost of her mistake can be written off as an expense incurred in developing her.

Empowering the Prime Minister is not the end of the process. It also implies that the Prime Minister reasonably empowers her ministers who, in turn, reasonably empower their subsystem managers. So it goes – until 'the doer' down in the field is empowered. Empowerment, says W Alan Randolph, 'is recognizing and releasing into the organization the power that people already have in their wealth of useful knowledge and internal motivation'.[172]

Empowerment does not lead to loss of executive control over administration, either. Ronald Reagon was 'more successful than many other elected chief executives in gaining control over the public bureaucracy' and part of his control strategy was decentralisation.[173] 'Reagon understood that to truly control the bureaucracy, one had to decentralize,' says Nicholas Henry.[174] 'Democracy stands or falls on trust,' concludes Vice-President Al Gore's report.[175]

Whether this trust is at work or not needs to be checked by Parliament. This also means that Parliament needs to respond to any breach of trust in an appropriate form. Thus Parliament will have to be informed, equipped and also creative to oversee how the Prime Minister is faring.

The democratic check is effective when it is 'decentralised' as well, ie local elected bodies also participate in the process. But while there is little doubt as to the 'unity of command' of Parliament over the Prime Minister at the national level, the role of local elected bodies in keeping a watch on the central authorities working at the local level continues to be debatable. In my opinion, local elected bodies – DDCs, VDCs and municipalities - should be provided with two types of power

with respect to central authorities working at the local level: (a) the power to question and (b) the power to report.

For example, on receipt of a complaint against the quality of the irrigation canal being constructed in a district under a centrally funded project, the concerned DDC should have the power to question the project manager on the matter by summoning him to appear at its meeting or otherwise as it deems fit. If the DDC is not satisfied with the explanation of the project manager and suspects that he has not acted squarely, it should have the power to report the same to the director-general of the Department of Irrigation.

Needless to say, local elected representatives should also have the power to ask for the copies of relevant documents, make inspection of the work-in-progress and obtain first-hand information on the matter from various stakeholders. But they should not be provided with the power to investigate an allegation of corruption against central-level authorities working in their areas, for this runs counter to managerial activism against corruption. The idea is to hold the subsystem manager fully responsible, while encouraging the local democratic process.

Trivial though they may appear to be, the power to question and the power to report are likely to work against local-level corruption dramatically. A DDC resolution casting doubt on the integrity of the chief of the local office of the central government is likely to make headlines in local newspapers and is also likely to be reported widely in the national media, forcing high-level managers to order an investigation into the matter.

If they fail to do so, the issue is also likely to be raised at Parliament by the member representing the concerned district. Thus we will have a situation where the democratic process initiated at the local level gains momentum at the national level, compelling the concerned minister or even the Prime Minister to promise action. More important, this will compel all central-level authorities working in the field to be transparent in their dealings in the first place.

Another way to facilitate the process of democratic check is to establish institutions of authority upward. This can be done to varying degrees.

Ideally, we have elected – and, therefore, fully democratic – institutions of authority. Besides the democratic government, local elected bodies, co-operatives and many of the water users' groups provide examples of such institutions of authority.

In Chapter 1 we said that a National Planning Commission formed by a democratic government is also formed democratically. Now, however, we may differentiate such intermediate agencies from directly elected agencies. While still instituted upward, intermediate institutions of authority are not instituted fully so.

In principle, at least from the angle of anti-corruption effect, it is always desirable to establish institutions of authority fully upward. But in practice, doing so may not be feasible all the time. We always elect the mayor of our city, but electing the city manager will be unusual. Even if we decide to elect the city manager as well, it would certainly be absurd to elect the city police.

However, there are ways in which intermediate institutions of authority can be placed close to the people, so that they, too, are satisfactorily instituted upward. The city police, for instance, can work together with the city community to such an extent that it turns out to be the city community's police. Lee Brown calls it 'neighborhood-oriented policing'.[176] Osborne and Gaebler call it 'community-owned government', one of the authors' 10 reinventing government strategies.[177] On the case for community-owned government, Osborne and Gaebler add that 'communities enforce standards of behavior more effectively than bureaucracies or service professionals'.[178]

When institutions of authority meet communities, 'bureaucracy' meets democracy. The Community Forestry Programme, which is hailed as a successful initiative, is a case in point. As well as co-operating with it, forest users' committees provide for a 'check' on the District Forest Office.

But the process of democratic control culminates in widespread popular alertness and action. As citizens of the country, it is the duty of all of us to keep a close watch on our Prime Minister and other representatives, and to remain united to demand clean administration. In doing so, we can exercise our right to information, if necessary. It is also important that we share such information among ourselves in all fairness. The mass media, the academia and all of us have a role to play in cleaning up our offices (Box 14).

In many cases, we do not even need to acquire and analyse official information in order to know whether our Prime Minister or her administration is clean or not. There are many simple and also very reliable indicators of cleanliness (Box 15).

Establishing institutions of authority upward applies to traditional institutions of authority as well. Given that many traditional institutions of authority are exclusionary in nature, there is always the risk of such institutions of authority being biased against the minority. The risk is minimised only when such institutions of authority are instituted democratically.

Finally, a word on the role of the Opposition. The Opposition can help the Prime Minister by justifiably opposing her ideas. In my opinion, the Opposition should resort to all forms of protest, including *bandhs*, against the Prime Minister – provided that they are peaceful and voluntary. Unless we learn to protest, we will continue to tolerate corruption and inaction. Just as the Prime Minister should be free to act, so, too, should the Opposition be free to oppose her act.

Democratically monitored managerial activism works best against corruption when certain ‘managerial conditions’ are also fulfilled. Fulfilling these conditions is our next anti-corruption strategy.

Box 10: Can You Deceive Me?

Suppose that a tourist is cycling near a crossroads and, having been unable to find his way, stops by you and asks you the direction towards his destination. Will you point him up to the other way?

Of course, you may say that there is nothing you can gain by doing so. Well, suppose further that a researcher comes closer to you just before the tourist comes, disguises herself as a friend of the tourist and, with an offer of Rs 100, asks you to do so just to make fool of her friend. Will you do so now?

Once again, you may say that the incentive is too little to motivate you to speak a lie. Well, suppose that the researcher also feels the same as you and, for the second time, offers you Rs 1,000. What will be your response now?

'Sorry, madam', I am sure you will say, 'even if you give me 100 thousand rupees, I cannot help you.' This is because you know that the tourist will trust you and you do not want him to suffer because of you. It just is not cricket. His innocence challenges you to remain honest.

Take another example. Suppose now that you are a bus conductor and I am your passenger. As soon as I get in your bus, you rush to me and ask for fare. I quickly give you Rs 100. You ask me about my destination. With a smile, I tell you the name of the place. You certainly know, and I also know, that the exact fare from here to there is Rs 25. After a while, you give me Rs 75 back.

I drew the tourist story out of imagination. In that case, I can only hope that my hypothesis will hold true. But in this case, you will not give me less than Rs 75 back, I can tell you. I am so confident because I have tried it several times with different bus conductors. Many a time I was charged even less than the exact fare. It was only once that I possibly paid Rs 10 more.

Were they all honest guys? I suspect not. This is because they sometimes gave me the ticket and

sometimes did not. But even if they did not give me the ticket, all but one (?) charged me the exact, or less than the exact, fare. How come you are honest to me and dishonest to your owner at the same time?

This is because I trusted you by not asking you about the amount of fare. With that friendly smile, and by not appearing to be worried about change, I even challenged you to remain honest.

But your owner has never trusted you. He has given you numbered ticket-books. Even if you gave two tickets to one of your passengers by mistake, your owner would not believe you and you would have to make up the shortage out of your own pocket. To make things worse, he sends you surprise checkers and frowns at you if you did not find many 'tip-ups' on your trip. I was once stuck for around an hour two or three kilometres short of my destination. The problem: The owner filled in the minimum amount of gasoline for the trip for fear of the gasoline being stolen by his own employees. Working in an environment like this, the best the bus conductor can do is become as less dishonest as possible.

We are all human beings. We all like to be loved, respected and trusted. This is by virtue of our human pride.

To be sure, there are many cases in which people betray others. But only abnormal people do so. You may well argue that, at times, normal people also breach trust. For instance, if the researcher offered you 100 thousand rupees and she really meant it, you could change your mind. Yes, but then, that is an abnormal situation as it is not normal for people to offer 100 thousand rupees just to make fun. We can therefore safely say that, if normal human beings choose to be deceptive, they do so only in abnormal situations and with enormous repentance. In other words, normal human beings do not breach trust in normal situations.[179]

> Broadly speaking, then, there is no way you can deceive me if I trust you. And, if you cannot deceive me, why cannot I trust you?

3.3 Triage controls, adjust punitive measures and rely on reward to leverage behaviour

One of the many useful techniques of business process re-engineering is triage. Long-established in hospitals, triage means applying different procedures to different 'cases'.

Michael Hammer and James Champy give an example of a fictitious auto-insurance company, illustrating how customers' claims could be triaged by exposure - small (no bodily injury and minor damage) and large (everything else) – so that the company could avoid processing small claims and carefully process large ones. As for small claims, customers could be asked to take their damaged car to the body shop they could choose from among those specified by the company and the company could pay the body shop the costs of fixing it up.[180]

Many of our checks, procedures and other forms of control are uniform. Even if such controls are triaged, they are usually counterbalanced.

'There is no such thing as "half-trust," said a pilot. 'The instructor pilot can't "half" sit next to you during your first solo.'[181] Unfortunately, what we have is all 'half-trust procedures'. You are trusted so long as you are checked.

Standard operating procedures were once considered to be efficient. But they no longer are. They were designed to meet the requirements of mass production and have lost utility with the end of the mass production era. Of late, standardisation has given way to 'customisation' everywhere, even in manufacturing.

'Already the use of versatile workstations, rather than fixed, single-purpose machinery, enables short production runs of specialized products, with rapid switching between product

types,' observed the MIT Commission on Industrial Productivity more than a decade ago. [182]

'To meet the demands of today's environment, we need multiple versions of the same process, each one tuned to the requirements of different markets, situations, or inputs,' add Hammer and Champy.[183]

In terms of procedures, three broad categories of controls may be identified. They are as follows:

> (a) administrative procedures (those related to legislation, regulation, certification, discharge of justice, maintenance of law and order, etc);
>
> (b) budgetary procedures (those related to selecting projects, raising revenue, spending money, keeping accounts, auditing performance, etc); and
>
> (c) personnel procedures (those related to recruitment, training, transfer, reward, anti-corruption action, etc).

In each of the three categories, there are certain essential procedures, eg procedures governing the discharge of justice, which need to be followed to the letter. But there are also many other procedures which are not as serious.

Triage is possible in different ways, especially by the degree of risk involved. In whatever way it is done, three levels of purpose - L1, L2 and L3 - can be defined, so that three types of procedure - P1, P2 and P3 - can be applied to them.

P1 means nominal procedures intended for mere official records. P1 procedures serve L1 purposes which are common but not that important. Registering a cottage industry, spending money up to the first limit and transferring a civil servant from one place to another are all examples of L1 purposes.

P2 stands for normal procedures serving L2 purposes. L2 purposes are important but not serious. Registering an

environmentally sensitive industry, spending money from the first limit to the second and promoting a civil servant provide examples of L2 purposes.

Likewise, P3 procedures serve serious, or L3, purposes and are therefore vital procedures, as we defined earlier. Among the examples of L3 purposes are registering a defence-related industry, spending money beyond the second limit and recruiting a civil servant.

Since L1 purposes are not that serious, subsystem managers can be safely left free to define their own P1 procedures. More important than L1 purposes are L2 purposes. Therefore, P2 procedures, which are applicable to L2 purposes, need to be laid down clearly. Yet P2 procedures are applicable to normal circumstances and are liable to be breached in abnormal circumstances as deemed appropriate by the Council of Ministers or the Prime Minister.

But L3 purposes are serious and call for the meticulous application of P3 procedures. Nobody – not even the Prime Minister or the Council of Ministers – can act in defiance of such procedures.

For the most part, P1 procedures are implicit. One can discern such procedures in standard practice. They are also likely to be laid down in some form in the minutes of staff meetings, terms of reference for parties, memoranda of understanding involving various stakeholders and the like.

But both P2 and P3 procedures are explicit. P2 procedures usually appear in the Rules which are framed by the Council of Ministers. They may also appear in official guidelines and directives, often issued by the Council of Ministers. P3 procedures are commonly defined by Parliament in its enactments, as well as being specified in the Constitution itself.

Not all controls are amenable to triage, however. The procedure for issuing citizenship certificate is a case in point. Also, in many cases, triage may be done at two levels (P1-P2, P2-P3 or P1-P3) instead of three (P1-P2-P3).

In terms of managerial hierarchy, the point of reference for P1 and P2 procedures is, once again, the subsystem manager. In other words, the discretionary power conferred by P1 procedures is conferred on the subsystem manager. The subsystem manager can then delegate his power to his subordinates in varying proportions as deemed appropriate by him.

Often decentralisation is considered to be better to delegation. But when looked from the angle of managerial activism against corruption, delegation appears to be the preferable alternative. A delegated power is monitored closely and withdrawn quickly. In addition, this can be done in a case-specific manner. If five out of 100 of his subordinates breach trust, a director-general can scale down the power of those five subordinates and leave the other 95 unaffected. But when powers are conferred on lower echelons of management by an Act, such a selective treatment is not easy.

Relating P1 procedures to subsystem managers is also important in that the scope of such procedures can be considerably broadened. No longer will our Council of Ministers need to cautiously raise the limit of direct spending from Rs five thousand to Rs 35 thousand and then to Rs 100 thousand. It can be safely extended to Rs 500 thousand or even Rs one million. More important, all countervailing procedures can be done away with, at least in the case of P1 procedures.

For instance, subsystem managers may be given the power to transfer money from one budget line to another, if necessary. Like the fictitious auto-insurance company in the Hammer and Champy example, which trusts the body shop (and I do not think it needs to be fictitious), we can trust our managers.

Subsystem managers are also the anchors of P2 procedures. They abide by such procedures and monitor their compliance across their subsystem. Also, often it is they who recommend to their minister and through him to the Prime Minister or the Council of Ministers on creating the exception to the rule for solving a problem, seizing an opportunity or simply trying out

innovative ideas on a limited scale as part of the learning process.

Operationalising triage in this way will be quite some work for the architects of our procedures. When they draft Acts or Rules, they will have to identify which category a proposed procedure belongs to.

If the proposed procedure belongs to the P1 category, then they will have to invariably add the clause 'or as deemed appropriate by the competent authority'. In the case of a P2 procedure, a common additional provision will have to be something like this: 'Notwithstanding anything mentioned elsewhere in this Act/these Rules, the Council of Ministers or the Prime Minister may, having regard to the special nature of a case or the urgency of a matter, prescribe otherwise, as deemed appropriate, in respect of the case or the matter'. Needless to say, the qualifying clause 'except for Sections/Rules (…), (…), … and (…)' will have to follow this provision if P3 procedures are also embodied therein.

If P1 symbolises trust, P3 stands for control. Whether P2 represents trust-dominated procedures or control-dominated ones will depend on how flexibly such procedures are defined. In fact, of the three categories, working out the second category of procedures will be the most demanding job because they should be well-balanced, making a 'business sense' as well as a 'control sense'.

In this way, we can triage many of our procedures, or other forms of control for that matter. The idea is to throw off petty officialdom and make control worth it; to empower 'fair-doers' and raise their morale; and also to make sure that malefactors do not get the opportunity to legitimise their deeds, as we saw in Chapter 2.

Learning organisations are sometimes compared with brains which in turn are compared with holographic systems.

Holography, invented in 1948 by Dennis Gabor, uses lenseless cameras to record information in a way that stores the

whole in all the parts.[184] Thus each of the parts contains, and can be used to reproduce, the whole, if necessary. Morgan explains how this phenomenon may be captured in the design of organisations, so that 'the system has an ability to self-organize and regenerate itself on a continuous basis'.[185] He presents five principles of holographic design, one of which is the principle of minimum critical specification.

'The principle of minimum specs suggests that managers should define no more than is absolutely necessary to launch a particular initiative or activity on its way,' says the author. 'They have to avoid the role of "grand designer" in favour of one that focuses on facilitation, orchestration, and boundary management, creating "enabling conditions" that allow a system to find its own form.'[186]

This is also the idea behind our defining procedures as above – creating enabling conditions while specifying boundaries.

People often produce better results when they are not told how to do something than when they are so told. Vice-President Al Gore's report speaks about America – but it also speaks about human nature everywhere:

> Sometimes, federal regulations and the way they're enforced give you the impression the government thinks everyone's crooked. Or that we're stupid – that unless the government spells out how to go about doing something we'll never figure out how to do it on our own. …
>
> But people – in government or out – are, for the most part, neither crooked nor stupid. … Perhaps the most important thing about the reinvention initiative, and its regulatory reform work in particular, is that it is based on a new assumption: that people are honest and that if you tell people what needs to be done, and let them get on with doing it, the chances are it will be done better – and more cheaply – than if you tell them how.[187]

Something of triage will also help adjust our 'special' punitive measures to practicalities.

Section 59 of the Civil Service Act 1992 (2049 VS) provides for two types of punishment – ordinary and special – that may be inflicted on a civil servant. *Nashihat*, freezing of up to two salary increments and deprivation of the opportunity for promotion for up to two years are the three levels of ordinary punishment.

Special punishment means the termination of service by way of either removal or dismissal. When one is removed from service, one is not deemed unfit for government service in future. But when one is dismissed from service, one is deemed unfit for government service in future.

The five-point punishment scale going from *nashihat* to dismissal is simple and well-constructed. Inasmuch as such traditional punishments as demotion or other forms of relegation have been avoided, it also reflects positive thinking.

The anomalies are in the grounds on which a civil servant can be punished. Take, for instance, dismissal from service, which is the severest form of departmental action that may be taken against a civil servant. According to Section 61(2) of the Civil Service Act 1992, a civil servant may be dismissed from service on two grounds: conviction of crime and involvement in corruption.

Alternatively, if a civil servant is found guilty of corruption, the civil servant is liable to dismissal from service, nothing less than that. But dismissal from service involves a possible encroachment on the citizen's freedom of employment as guaranteed by Article 12(2) of our Constitution. The affected employee can seek legal redress for dismissal from service. Moreover, corruption is so elusive that it is very difficult to prove a charge of the same in a legally acceptable way. Worse still, what is legally acceptable may not be practically justifiable in many instances due to the 'scapegoat factor'.

In addition, the punishment should fit the offence. Kautilya says:

> … [T]he (king), severe with the rod, becomes a source of terror to beings. The (king), mild with the rod, is despised. The (king), just with the rod, is honoured.[188]

A junior official's accepting a 'tip' from a tax-payer in return for his prompt service in connection with the issuance of the income-tax clearance certificate is by no means acceptable. But it is not the same as a senior official's asking for a share of a tax-payer's savings in consideration of accepting evasive income-tax returns. While a severe punishment would be justified in the second case, simply *nashihat* – a yellow card – would do in the first case, at least for the first time.

But dismissal from service is the only option open to the concerned authority in the first case, too. Consequently, for the purposes of anti-corruption action, the five-point punishment scale is virtually reduced to a binary one.

Changing this 'either-everything-or-nothing' type of punishment scale with 'something' in between is also essential for facilitating managerial activism against corruption. As we also said earlier, managers have the temptation to settle for something rather than allowing a case to be dragged on. Quick action, also an important advantage of managerial activism against corruption, requires that we adjust punitive measures in such a way that managers have many options open for them. This means that we may define conditions for punishment, but leave it up to managers to decide which punishment should apply to which condition.

According to Section 60 of the Civil Service Act 1992, an ordinary punishment may be inflicted on a civil servant on six different grounds: unsatisfactory performance, failure to timely report to the office one is transferred, absenteeism, indiscipline, violation of codes of conduct and failure to hand or take over. Similarly, as provided for in Section 61, a civil servant can be removed from service on seven different grounds: incompetence, violation of codes of conduct, drunkenness, indiscipline, involvement in politics, irresponsibility and absenteeism. These 13 conditions and the two for dismissal add

up to 15. This means everything. Besides, many of these conditions seem to be arbitrary.

Take, for instance, incompetence. Enabling people to perform their duty by means of knowledge, equipment and empowerment is a managerial responsibility, too. If we punish people on the grounds of incompetence, who should we punish – the subordinate or the superior? Until now, we have allowed an incompetent superior to punish an 'innocent' subordinate for not being competent.

In my opinion, the three judicious grounds for punishing people are absenteeism, corruption and crime.

Absenteeism means failure to report for duty without a genuine reason. Absenteeism is a serious problem in many developing countries. Reviewing survey results, Développement des Capacités noted that in Ghana in 1987 there was between 10 and 70 per cent absenteeism, depending on the institution. … In Gambia only 20 per cent of civil servants had spent a full day at work.[189]

The problem is equally serious in Nepal. In many parts of our country schools lack teachers, VDCs have no secretaries and health centres have no doctors.

Absenteeism is arguably punishable. First, being present at one's workstation is one's first obligation under an employment contract. Second, absenteeism represents deliberate negligence which can be consequential in many instances. Third, punishment is often a natural consequence of absenteeism. Besides, in normal circumstances, a threat of punishment can check absenteeism without any dysfunctional effects.

The second common condition for punishing people is corruption in both economic and ethical terms. Perhaps ethical corruption may be considered as a violation of professional codes of conduct. Economic corruption also amounts to a violation of professional codes of conduct, of course. But it is the generally understood form of corruption as well. So, for all practical purposes, we may make this distinction. Thinking in terms of professional codes of conduct is better than thinking in

terms of indiscipline, drunkenness or involvement in politics. Professional codes of conduct have broad meaning and also positive appeal.

Likewise, crime provides the third ground for punishing people.

Now, managers should be allowed to punish their people in a form of their own choosing in cases of absenteeism and corruption. However, they will have to choose a punishment from the specified five - *nashihat*, freezing of up to two salary increments, deprivation of the opportunity for promotion for up to two years, removal from service and dismissal from service.

Moreover, both absenteeism and corruption may be defined in rather general terms, so that managers have the necessary flexibility. For instance, the official definition of absenteeism may include the words '… and all other instances of absence from work which may be considered to be absenteeism'.

Similarly, an official definition of corruption should cover its ethical dimension as well, possibly by adding the words '… and all other forms of behaviour which are inconsistent with the generally accepted professional codes of conduct of …'. This means that managers may actually avoid using such words as absenteeism or corruption in their punishment letter if they like to. For example, a punishment letter may simply include the clause '… and having considered your … to be inconsistent with the generally accepted professional codes of conduct of a … ,'.

Crime is a different matter, taken care of by the police and the public prosecutor. What managers need to do in a case of crime in which their subordinate is also implicated is to wait for court's verdict and, if he is convicted, honour the same by punishing him in terms of departmental action as well. Triage is possible here, too. For instance, a person involved in a misdemeanour for the first time may be punished ordinarily, while a person involved in an act indicating moral turpitude may be punished 'specially'.

With the five levels of punishment – *nashihat* through dismissal from service - linked to the three types of condition – absenteeism through crime, we will have a flexible punitive framework.

But what about other conditions for punishing people, notably non-performance?

Non-performance has traditionally formed a basis for inflicting a punishment on an employee in both public- and private-sector organisations. Many of us are even critical of allowing non-performance go unpunished. 'The main problem with us is *dandabihinata*,' said a former secretary at a recent workshop on handling public grievances. 'Even if you don't do anything, nobody will punish you.'

Punishing non-performance will not help, unfortunately. Non-performance represents a lack of motivation and a motivational problem demands creative managerial measures rather than a *dandasanhita*. Actually, we have a situation where neither punishment nor reward can be justified. Once again, 'something' has to be found to fit such a situation – and this something may be called no reward, as we mentioned earlier.

No reward is a perceived lack of recognition of one's performance. No reward exists by virtue of reward. In other words, if nobody is rewarded in a managerially self-contained subsystem, people do not feel no reward. No reward is invariably implicit. In other words, explicit no reward is a punishment. Temporary deprivation of the opportunity for promotion is a case in point. No reward has several advantages over punishment.

First, no reward is the natural consequence of non-performance. When one is faring badly and is surpassed by someone else, it is only natural that one is not rewarded and someone else is rewarded instead.

Second, unlike punishment, no reward does not suppress the desire to do good. Indeed, it challenges non-performers to outperform 'performers'.

Third, no reward is a relative term. The fact that one is not rewarded does not necessarily mean that one does not deserve reward. This leaves hope for all.

Fourth, no reward is more easily correctible than punishment. If you wrongly punish your subordinate, it may be years before you can win his loyalty back, no matter what you do to correct yourself. But if you fail to appreciate the work of your subordinate now, you can do so next time as soon as you have realised the same.

Fifth, with no reward, managers are likely to develop a positive attitude towards their people. They will start seeing their people's achievements more readily than faults. This will help create an environment of trust.

Even so, no reward forms a clear message to non-performers: If you do not put extra efforts into your work, others will keep on enjoying the opportunities you are also equally entitled to.

Such is the value of no reward in a managerial situation involving non-performers and many other challenges, including lethargy, incompetence and irresponsibility. In fact, new managers need to forget the old slogan of reward and punishment. They may resort to punishment only in cases of absenteeism, corruption and crime. In all other instances, they can manage with reward and no reward, or simply reward. They can leverage the behaviour of their subordinates more wisely by relying on reward than by resorting to punishment.

No reward can be felt in many – but not all – instances of reward. This is because reward can be both discriminatory and non-discriminatory. A discriminatory reward framework rewards only those who are selected on some basis. By contrast, under a non-discriminatory reward framework, all are rewarded equally or equitably.

Since no reward is perceived only in an instance of discriminatory reward, no reward always implies discriminatory reward. This does not mean, however, that non-discriminatory reward is of less value. In fact, if discriminatory reward helps address the problem of motivation, non-discriminatory reward

helps attack the problem of corruption. We will dwell on this later.

My point is we have to be aware that reward presents many possibilities and that it has its power as a positive measure to check corruption.

Finally, a word on extra punishment, ie punishment in addition to departmental action. As provided for in various sections of Part 2 of the Corruption Prevention Act 2002, on being convicted of corruption, a *rastra sewak* has to make up the loss or return the bribe to the government first. Second, he has to pay a penalty to the tune of the amount of the same. Third, he is sentenced to imprisonment for up to 10 years.

The first extra punishment – restitution of money to the government – is not punishment at all. Naturally, if one snatches something, one has to hand it back. The cost of corruption[190] which needs to be recouped may or may not be known, however.

For instance, the cost of embezzlement is the amount of money embezzled. Similarly, the amount involved may be considered to be the cost of bribery.

But more often than not, the cost of corruption is an unknown quantity. This is so not only in the case of ethical corruption, but also in the case of economic corruption. What is the loss to the government when a project manager accepts the second lowest bid instead of the lowest one? People may be divided in their opinion about the cost of corruption in this case.

Some may say that the difference between the lowest bid amount and the accepted bid amount is the loss to the government – hence the cost of corruption. This is the auditor's approach. Others may not agree with this and argue that the amount of money accepted by the project manager while accepting the costlier bid is the actual cost of corruption. We may call this the lawyer's approach. Still others may argue that the overpayment to the second lowest bidder could well be offset by this bidder's better reputation – hence the cost of

corruption is zero. This may be labelled the economist's approach.

The lawyer's suggestion could be acceptable to the majority of us. Unfortunately, unless the person who bribes complains himself, it is very difficult to know about the secret deal. Additional difficulties will arise in attributing the loss to different individuals, even if the same could be ascertained in some way. Often many people are involved in the decision-making process. Some may have been deceptive and some innocent. These honest people might have thought that others were honest, too, and the proposal was on the level. The usual practice in such a situation is to hold all those who are involved in the case jointly and severally liable for the loss which may not be fair.

Given these complications, the investigator may be advised to make efforts to ascertain the cost of corruption only if it is ascertainable on a fair basis. In the absence of such a basis, the investigator will be on the safe side by giving the benefit of doubt to the accused. In such a situation, instead of trying to find out the cost of corruption directly, the investigator may be advised to resort to the indirect method of detecting corruption and estimating the cost thereof. To this indirect method, we will come back later.

For now, once the cost of corruption is fairly ascertained and the basis of attributing the same to one is just, one should be made to make it up to the victim or the government.

The second extra punishment – the penalty to the tune of, or rather up to the tune of, the cost of corruption – is reasonable as well. In fact, even in the event of the cost of corruption being not ascertainable, and therefore not ascertained, especially in the case of ethical corruption, a penalty not exceeding a certain limit, eg the total amount of one's one month's salary, may be justifiable.

Thus departmental action leading up to the dismissal from service, as well as being made to return the 'principal' and pay the penalty will make up an effective deterrent for the wrongdoer – provided that he cannot hope to escape being

brought to book. Even in the case of unascertainable loss, the possibility of being caught the other way round, ie through the indirect method of detecting corruption and estimating the cost thereof, will be equally threatening to such a *rastra sewak*.

This will also enable us to reconsider the desirability of prison sentence, ie the third extra punishment, in the vast majority of cases.

In recent years, a positive attitude towards punishment is gaining acceptance even in the case of crime. We have already abolished the death penalty. The Task Force on Reviewing the Administration of Criminal Justice has recommended converting a prison sentence of up to one year into a fine in the case of a crime committed for the first time as deemed fit by court and providing for a remission of 25 per cent of the applicable punishment should one readily accept crime and co-operate with the investigator.

Thus, for the most part, unless we want to treat it 'specially' frightening the righteous away, corruption, a professional and/or economic offence, is best punished professionally and/or economically.

However, in extreme cases, especially where the cost of corruption exceeds a specified limit (eg Rs 10 million or so), it may still be desirable to provide for prison sentence. But this should be subject to three conditions: (a) that prison sentence is judiciously triaged, (b) that judges have discretionary powers to fit the punishment to the offence and (c) that the person who is accused of corruption has the right to challenge the investigator to scrutinise his assets as proof of his innocence at any point of time in the process of investigation or during court hearing.

If there is nothing unusual in one's assets, everything should end there, assuming that the cost of corruption was either wrongly calculated or wrongly attributed to one.

Also related to the extra punishment is the punishment of the non-official involved in a case of corruption. Section 3(3) of the Corruption Prevention Act 2002 provides that a person who

bribes an official into doing or not doing an act is liable for the same punishment as the official who is so bribed.

I think that a non-official should be punished in this way when she is a beneficiary of corruption, but not when she is a victim of corruption. This will also encourage an innocent citizen to complain against a clever *rastra sewak*.

Needless to say, managerial activism against corruption calls for providing for all these additional punishments and anti-corruption action in the civil service Act and the Rules framed thereunder, and not in a separate anti-corruption Act or something. Similar provisions may be embodied in the Acts or Rules governing other managerially self-contained subsystems as well.

A meaningful job that may be performed in an environment of trust characterised by business-oriented controls and businesslike punitive measures will certainly change our public service – provided that our managers rise to the occasion. Ensuring that they do is nothing less than a new strategy to fight corruption.

Box 11: Honesty v Capability

'Those who are honest are not capable and those who are capable are not honest.' This is one frequently heard observation. Some even say that we are actually facing a dilemma involving dishonesty and incompetence.

Like similar other observations, this needs to be reviewed critically. Such a remark is usually made with reference to leaders – political or administrative. Being honest is certainly not enough for a leader. She has to be a good leader, a visionary leader, a capable leader.

But what are leadership capabilities? If we carefully listen to those who say that honest leaders are not capable, we can sense that their definition of 'capability' mainly covers some personality traits: good look, clear voice, assertive posture. Perhaps a degree of fluency in English

is also counted. Capability from this angle essentially means the ability to command and control.

That is a mistaken view. What should actually count in a leader is her 'enabling abilities', and not the ability to command and control. 'The new leader … is one who commits people to action, who converts followers into leaders, and who may convert leaders into agents of change,' say Bennis and Nanus.[191]

Whatever the definition of 'capability', a crooked leader cannot be considered to be a capable leader. Alternatively, being honest is a necessary, if not sufficient, condition for being a good leader. And, if you ask me, I would actually choose an 'honest-incapable' leader rather than a 'dishonest-capable' leader, for the former will be a non-doer at worst, while the latter will be a wrongdoer at best.

3.4 Develop managers, and demand clean and productive organisational culture

Today's managers need to be 'knowledge-managers'. Without knowledge-managers, making managers fully responsible for anti-corruption action will also be of little avail. Nor will exploring various avenues to learning, self-development and advancement for people make sense.

Until the end of the *Rana* rule and for some time even afterwards, the basic qualification for entering the government service was *char pass*, or graduation in four courses – (a) the Nepalese accounting system, (b) writing (ie hand writing), (c) arithmetic and (d) laws of Nepal.[192] The formal *char pass* training used to be given by the *Shresta Pathasala* and the examination used to be conducted by the government.[193]

The Tribhuvan University offered commerce courses in 1955.[194] It added a course in public administration to the curriculum for Master's degree in political science in 1961.[195] In 1968, it also introduced the Diploma Programme in Public Administration under the Department of Political Science.[196]

However, it was only in 1973 that it took the initiative in giving students management education with the necessary professional touch.[197] Management courses, including the Master's degree in Public Administration, were then run by its Institute of Business Administration, Commerce and Public Administration.

But even today, despite a surge in the number of students attracted to management education (or business studies or the study of public administration, as it is variously called), management does not seem to have actually received the importance it deserves, especially in the public sector. Management education is not necessary to be a manager. A bachelor's degree in any subject - from linguistics to veterinary to chemistry - is sufficient for one to be a general manager, a director-general or a secretary.

Worse still, many people even consider technical disciplines to be superior to non-technical ones. These people insist that a good doctor can also be a good director-general or a good scientist can also be a good secretary. This is not the case, however. While there are exceptions, a good doctor is at best an 'unregistered management practitioner' and a secretary's office is far removed from a scientist's laboratory.

'The general administrator is a special kind of co-ordinator and arbitrator,' says Self. 'He assists political decision-making through assembling and processing a diversity of claims, opinions and view-points.'[198]

It is one's knowledge of cross-cutting issues and mastery of integrating many specialised functions – one's specialisation in general administration – which is important for one's success as a general administrator. Kenneth R Andrews observes, 'The successful generalist survives and succeeds in a specialized world by virtue of his management skills rather than his technical knowledge.'[199]

Amitai Etzioni has also considered the issues involved in organising knowledge in different types of organisation – professional (eg a university or a general hospital), service (eg a research firm providing services for researchers or a nursing

home providing facilities for doctors) and non-professional (eg an industrial unit or a military establishment).[200]

According to him, there is a case for administrative orientation in non-professional organisations. He says, 'When people with strong professional orientations take over managerial roles, a conflict between the organizational goals and the professional orientation usually occurs.'[201]

Etzioni sees the need for professionally oriented administrators in professional organisations, too. 'Goal as well as means activities seem to be handled best when such a person is the institutional head,' says the author.[202]

Even in proprietary service organisations, he points out 'the lack of a neutral agent to arbitrate differences of opinion and interests among the professionals'.[203]

Etzioni was writing in 1964. Today, organisations have increasingly come to acquire professional characteristics. Tom Peters actually calls for transforming 'departments' into 'professional service firms'.[204] Knowledge-workers need the working environment of a professional service firm. And professional service firms need professionally oriented administrators.

More to the point, every discipline has a role to play in Nepal's development. Nowhere have I found this point better made than in the report of the MIT Commission on Industrial Productivity. The Commission has the following to say on its composition:

> We are also a highly interdisciplinary team. The Commission includes economists, technologists, and experts on organization, management, and political science. From the outset we drew on all of these perspectives in the belief that no single discipline could have a monopoly on wisdom in such a complex realm.[205]

The interdisciplinary spirit is reflected in the advice of the Commission, too. For example, it advises universities to expand the 'breadth' of their engineering curriculum covering socio-

economic issues and that of management curriculum covering technological aspects.

'Future baccalaureate graduates of MIT's School of Engineering should have obtained a firm foundation in the sciences basic to their technical field, … and have begun to understand and respect the economic, political, social, and environmental issues surrounding technical developments,' states the Commission.[206]

Likewise, on management curriculum, the Commission observes, '… [E]very manager does need to understand how technology relates to the strategic positioning of the firm, how to evaluate alternative technologies and investment choices, and how to shepherd scientific and technological concepts through the innovation and production processes to the marketplace.'[207]

According to the Commission, the 'depth' has to be preserved as well. 'In calling for this change, we do not wish to return to the past educational focus on "handbook" engineering at the expense of fundamentals,' adds the Commission with respect to the engineering curriculum.[208]

Unfortunately, management education in Nepal is neither very deep nor very wide.

Therefore, the first thing we need to do is make sure that our management education is adequate in terms of its coverage and rigour.

I do not think that I am competent to comment on the ways of improving our management course. But I know that improvement is urgently needed and that our faculties know how best to do it. One aspect, though, is duration. The Tribhuvan University has recently extended its two-year bachelor's course to three years which is a welcome move. With the three-year bachelor's course plus the two-year Master's course, one can hope to give fairly comprehensive education to students.

But the problem arises when graduates of a non-management course want to do a Master's course in management. The Kathmandu University offers one year's pre-MBA programme

for such students. The Tribhuvan University also needs to do the same in its MBA and MPA courses. Also, our universities may be advised to reconsider the adequacy of course while recognising the degrees conferred on students by foreign universities.

A related issue is whether one can do a management course as a private student. In my opinion, students cannot satisfactorily complete their study of management privately. What universities can do is offer evening and morning classes as well as day-time classes for the convenience of students.

Second, we need to draw managers-to-be from the relevant academic background.

Since different types of people – security officials, regulators, change agents, collectors and diplomats, among others – are required for administering the country, the administrative service is taken as the general service and entry to this service is open to people with different academic backgrounds. It is generally believed that, given the required training and having gained the necessary experience, the talented ones from among the different ones can be developed into top-level administrators, or generalists, as they are commonly called.

In yesterday's slow-moving world the approach was appearing to be alright. The generalists thus developed helped ensure consistency and stability. More important, whatever they could do was often considered to be fair enough, even though rarely were they good at effecting change, integrating functions and 'assisting political decision-making through assembling and processing a diversity of claims, opinions and view-points'.

In order to be well placed to manage in today's fast-moving world, managers need all the three types of management skill – technical, conceptual and human – as defined by D Katz.[209] And acquiring these skills entails considerable course-work, self-reflection and experience-led learning over a period.

With Master's degree in physics, for instance, one can only have experience-led learning in the conceptual and human

dimensions, if not in the technical dimension, of managerial work which tends to ensure management by precedent. No wonder that a sincere secretary, too, often fails to live up to the expectations of a sincere minister.

It is therefore rather late in the day to seek to develop generalists after people have joined the administrative service. We have to start right from the university. This implies that we have to restrict new entry to the administrative service, or to any branch of our civil service for that matter, to those who have the relevant academic background.

Defining the relevant academic background will not be easy, however. This is more so at a time when universities are revising their core curricula, devising alternative programmes of instructions and offering interdisciplinary professional courses or elective modules as part of their own response to the changing need for education. Therefore, a practical definition of the relevant course will have to avoid extremes.

Ideally, in the case of the administrative service, one would consider only management and administration to be relevant. To begin with, though, an idea would be to consider social sciences as being relevant. This is also consistent with the French description of the higher civil servant as 'the social scientist in action'.[210]

Nor should be the yesterday's stereotyped generalist the object of our management development plan. We will have to aim to develop administrative leaders. In fact, I have been using the words 'managers' and 'leaders' interchangeably. But management thinkers, especially those who write on leadership, have differentiated leadership from management of late. Bennis and Nanus write:

> "To manage" means "to bring about, to accomplish, to have charge of or responsibility for, to conduct." "Leading" is "influencing, guiding in direction, course, action, opinion."[211]
> 'Both are important,' add the authors.[212]

John P Kotter also sees this difference. ‘Strong management without much leadership can turn bureaucratic and stifling, producing order for order’s sake,’ says Kotter. ‘Strong leadership without much management can become messianic and cult-like, producing change for change’s sake – even if movement is in a totally insane direction.’[213]

Bennis and Nanus, and also Kotter, believe that many organisations tend to be ‘over-managed’ and ‘under-led’.[214]

The same is true of us. Our organisations, especially public-sector ones, are overly managed and poorly led.

Third, we need to provide technical or professional people with opportunities to manage, depending upon their interest and education.

For example, if an MBBS doctor wants to be a secretary, she will do Master’s degree in management or any other social science. Then she will leave the medical service to join the administrative service. In effect, there will be two career paths before a medical doctor – the normal technical road leading to the top-level (or ‘specialist-class’) doctor and the managerial detour leading to the secretary.

The same will apply to other technical or professional branches of our civil service.

Thus our administrative officers will have Master’s degree in management or any other social science. Many of them will have come from technical or professional backgrounds – through the detour. And once they are in the administrative service, all of them will be developed into administrators, or rather, administrative leaders. With a view to facilitating their ‘technical orientation’ towards one broad policy area, we will have three clusters of ministries – social-sector ministries, economic-sector ministries and conservation-sector ministries – representing three broad policy areas (Table 2). With proper placement, training and transfer policies, we will encourage our administrators to specialise in one such area.

Table 2: Classification of Ministries by Broad Policy Area

Social-sector Ministries	Economic-sector Ministries	Conservation-sector Ministries
Ministry of Education	Ministry of Finance	Ministry of the Environment
Ministry of Health	Ministry of Commerce and Industries	Ministry of Water Resources
Ministry of Population, Women and Labour	Ministry of Public Works	Ministry of Land Reform and Soil Conservation
Ministry of the Interior	Ministry of Agriculture and Co-operatives	Ministry of Forest and Wildlife
Ministry of Local Self-government	Ministry of Communications, Transport and Tourism	Ministry of Culture and *Janajati* Welfare
Ministry of Law	Ministry of Science and Technology	**Exceptions** ▪ Ministry of Defence ▪ Ministry of Palace Affairs
Ministry of Foreign Affairs		

With this, the generalist versus specialist debate will also lose relevance. The idea is to facilitate specialisation in general management. Long ago, Self saw the need for a similar focus in Britain's civil service. 'Specialisation by broad policy area rather than by administrative process represents the desirable evolution for general administration,' observed the author.[215]

But will it be feasible, even desirable, to encourage technical or professional people to take a career detour in this way? I believe yes.

It will be feasible because one will be taking a detour at the same level, ie by way of transfer, and not by way of promotion – unless one makes it through the open competition.

And it will be desirable for many reasons.

One, people will have choice which is very important for their development at any stage of life.

Two, those who will be taking a detour will also bring with them an external perspective on work which is equally important for organisational development. Schön … [argues] that creativity, particularly scientific creativity, comes from the 'displacement of concepts' – from taking concepts from one field of life and applying them to another in order to bring fresh insights.[216]

Three, as one's decision to join the administrative service will entail leaving one's specialised profession, the same will represent one's considered choice and 'internal commitment' to the management profession.

Figure 5 presents the various possibilities we have just considered.

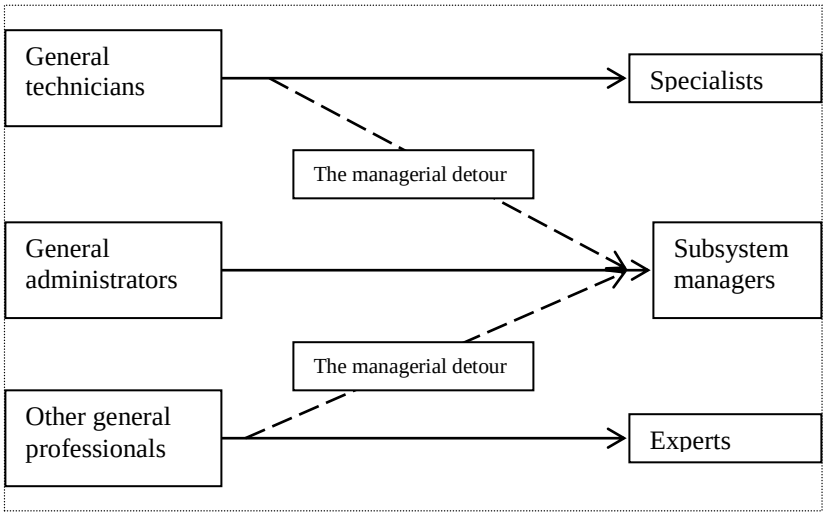


Figure 5: Career options for civil servants

As of now, we are losing specialists and not getting managers. While they talk in a different context, the situation facing us is the one described by Hammer and Champy in an example:

> If Elizabeth is a good chemist, conventional thinking goes, she will be a good manager of chemists. Often that isn't true, and Elizabeth's "promotion" could get the company a bad manager at the cost of a good chemist.[217]

With their area of responsibility commensurate with their field of study and their career along the path of their own choosing, people will be encouraged to learn all the time as demanded by today's work. This is also the only way to develop management as well as specialism.

Given the above career plan, unless they take a managerial detour, technicians and professionals will develop themselves into specialists and experts. They will focus on their specialism. They will work as individual specialists or experts, or in teams. They will advise managers on technical or professional matters,

extend their services to their offices' clientele and sit on technical or professional projects.

But do we need 'full-time' managers everywhere?

While managerial function is all-pervasive in organised activities, we do not need full-time managers everywhere. In my opinion, the need for full-time managers is overshadowed by 'individualism' both below and beyond certain levels.

For instance, if there are only three people working in a rural health centre, we cannot justify a full-time manager to run the centre. The unit is so small that, with the normal interpersonal skills, and under the guidance of his superior, the health assistant can assume the managerial responsibility as well.

Likewise, when people are so successful that they can identify themselves with their own names better than with the organisation they belong to, they are past the managerial sphere. Well-known doctors, professors and lawyers are some examples. Perhaps the only way to manage them is not to manage them.

Recently, I met a renowned artist who was still working for a small co-operative. Its management was able to retain him by giving him the honour and freedom he deserved.

When do we need a full-fledged manager in an organisation then? I think that the answer to this question is better provided by specialists or experts themselves. In other words, an organisation can be run by a specialist or an expert so long as he or she is not pre-occupied with managerial work and can concentrate on his or her work as a specialist or an expert. Once I had taken an appointment with a doctor at a Nursing Home who also ran it. As the doctor was about to see me, his administrative assistant intervened with a range of issues surrounding the pricing of their new X-ray services, leaving me wondered for many minutes. Apparently managerial work was taking precedence over his 'medical work' and it was about time the doctor looked for a full-fledged manager.

The same is true of other technical or professional areas. A teacher may find time to run a school as a teacher, but a professor cannot find time to run a university as a professor. A

university can be managed by a full-time president, a fully trained manager, and not by a full-time professor, a partially trained manager.

Similarly, an engineer may be in a position to manage the construction of a small irrigation project, but she cannot work as an engineer if she wants to manage the construction of a large irrigation project.

The size of an organisation and the level of its managerial complexities that call for full-fledged managers vary from one sector to another. However, we may say that at least subsystem managers will have to be full-fledged managers or general administrators – coming from the administrative service. In future, we will also be seeing more technical or professional positions changed to administrative positions in many lower-level units (eg a Zonal Hospital, a Regional Agriculture Research Centre and a relatively broader Watershed Management Project) as well, and the responsibility for managing them entrusted to administrators.

Specialists or experts will have their own 'hierarchy' parallel to that of managers. For managerial purposes, they will be reporting to managers. However, in the new environment, managers will not 'boss' specialists or experts about; they will act as their counterparts, even clients. Nor will specialists or experts be superior to managers. Their jobs will be different in nature but equal in importance.

I think that this realisation should be a point of departure for us. Neglecting management, or any other discipline for that matter, can be very costly. Explaining Deming's management philosophy, Aguayo writes:

> As Deming says, no nation need be poor. But it isn't the desire of the people of a nation to work hard that determines its prosperity. It is the attitudes, system of beliefs, and state of knowledge that determine the long-run prosperity and standard of living of a nation. In other words, prosperity depends on management.[218]

Fourth, we need to invest in management development.

For years now, academics have been pointing out the need for management development in the country. Already in 1980, Govind Ram Agrawal said:

> The time has come for Nepalese planners to stop complaining about gaps in implementation and start giving serious thoughts to improving managerial capability. Managers must be developed for effecting better management of development. Management, above all, should be looked upon as a catalyst in the development of Nepal.[219]

Investment in human development always pays off. And developing managers is more important than devising controls.

Management development means developing all the three types of managerial skill – technical, conceptual and human. The development needs of managers may not be the same, however. Generally speaking, those with primarily management or social science backgrounds will need technical skills more than conceptual and human skills, while those with primarily technical backgrounds will need conceptual and human skills more than technical skills. In any case, management development should be a continuous process as management, like many other disciplines, is a fast-evolving body of knowledge.

However, we have apparently pursued the policy of sending people abroad for training only when fellowships are available. While the financial constraint is understandable, we need to make efforts to find more money for training people both at home and abroad. Will it be a bad idea, for instance, to send a group of promising additional secretaries to Harvard to participate in its Business School's famous nine-week Advanced Management Programme, or a similar course offered by its John F Kennedy School of Government, before we promote them to secretary? Certainly I do not mean that we are in a position to send them there to do a $44,000 regimen right

now. I only mean that we have to look outward and think of Harvard or elsewhere in our effort to develop managers. The Administrative Staff College has now started taking senior administrators abroad as part of its executive development programme which is a step forward. The executive MBA programme of the Kathmandu University is also a welcome initiative.

Finally, we need to promote 'local clusters'.

Michael E Porter, Hirotaka Takeuchi and Mariko Sakakibara say, 'Clusters are geographic concentrations of interconnected companies, specialized suppliers, service providers, firms in related industries, and associated institutions (such as universities, standards agencies, and trade associations) in particular fields'.[220]

According to the authors, local clusters are an important aspect of the microeconomic business environment.[221] 'When interconnected companies and institutions in a given field cluster in one location – Silicon Valley, for example – all of its members benefit from the ease of pursuing relationships and from the ability to source specialized components, personnel, and services efficiently,' add the authors.[222]

Many public-sector agencies, including the Ministry of Women, Children and Social Welfare, are creating networks, stakeholders' forums and so on of late. While this is a welcome development, such initiatives fall short of local clusters. Local clusters are foundational, providing a local scientific base, a local regulatory framework, a locally shared operational ethics and so on. Local clusters also provide opportunities for learning and sanctions.

Government agencies are not the only beneficiary of such opportunities; academic institutions also benefit from them. 'Teachers of management do little research on management and organisation issues,' writes Ken Afful bemoaning management education in Nepal. 'They have little contact with managers and owners of firms.'[223]

Developing managers makes sense only when they take charge to deliver the goods. Managers should be required to create clean and productive organisational culture. Schein defines the culture of a group as 'a pattern of shared basic assumptions that the group learned as it solved its problems of external adaptation and internal integration, that has worked well enough to be considered valid and, therefore, to be taught to new members as the correct way to perceive, think, and feel in relation to those problems'.[224]

'Culture is a mechanism of social control,' says Schein.[225] When organisations are transformed, formal control gives way to social control. On the role of leadership in cultural transformation, Schein says, 'Organizational cultures are created in part by leaders, and one of the most decisive functions of leadership is the creation, the management, and sometimes even the destruction of culture.'[226]

Leaders embed and transmit culture by way of primary embedding mechanisms, including their attention, reaction and allocative criteria, and secondary articulation and reinforcement mechanisms, including organisation design, stories and formal statements of values.[227]

When we empower managers, we will also demand clean and productive organisational culture in various ways. Today, we are not so demanding. Whenever we do, we demand action. Tomorrow, we will be highly demanding and we will be demanding both action and honesty.

The basis of evaluation will shift, too. For instance, the director-general of the Department of Immigration will be evaluated mainly on the basis of the fairness with which his officials treat our tourists, among others.

One way to ensure clean and productive organisational culture is to ensure transparency. In fact, a recent stream of management thought is called 'open-book management'. John Case, who coined the phrase, says that one of the three organising principles of open-book companies is to create a transparent company.[228] Just as procedures need to be open to

allow managerial choice, so, too, does managerial choice need to be open to public review.

Internal transparency is as important as external transparency. Thanks to information technology, local-area networks may be set up to facilitate sharing of on-line information among members of an organisation.

Staff meetings provide useful forums for making decisions in an internally transparent way, as well as enabling people to have a sense of owning decisions. Open-book companies call them huddles.

A huddle is a regular, structured series of meetings designed specifically to allow people to participate in running the business.[229] Originally used by Jack Stack and Bo Burlingham, this sports metaphor came from American football. The action … occurs in a series of plays initiated by the offense … . Before each play, offensive players gather in a circle, where they learn what the next play will be. That gathering is called a huddle.[230]

Case describes it as 'a useful term because it means not just any old staff meeting'.[231]

Whether we call them huddles or staff meetings, staff meetings needn't be organised in old fashion. Today, staff meetings are held perfunctorily, especially when the chief has something to say. This should be changed. The staff meeting should be considered as the main advisory body, if not the general assembly, of an office. This can be ensured by recognising the advice of the staff meeting. For instance, if a manager has taken a decision on a matter having put the matter before the meeting of the members of his staff and as recommended by the meeting, his decision can be labelled 'internally transparent'.

Thus questionable decisions may be classified as internally transparent or as 'internally opaque'. In many cases, our Acts and the Rules framed thereunder provide for forming committees. They can also provide for taking the advice of the staff meeting, especially on matters where the decision-maker is given discretionary powers.

Where full-fledged staff meetings cannot be held every time, especially in large organisations (eg ministries), divisional or even sectional staff meetings will also do.

New avenues to ensuring external transparency may be explored likewise. For instance, ministries and departments can create their websites. They can also share on-line information on various aspects of their activities with the general public. Large projects, too, may be required to be externally transparent by creating and updating their own electronic notice-boards, activity reports and all.

Thus the transparency of an act, a decision or an organisation as a whole may be typified in one or other of the four ways (Figure 6).

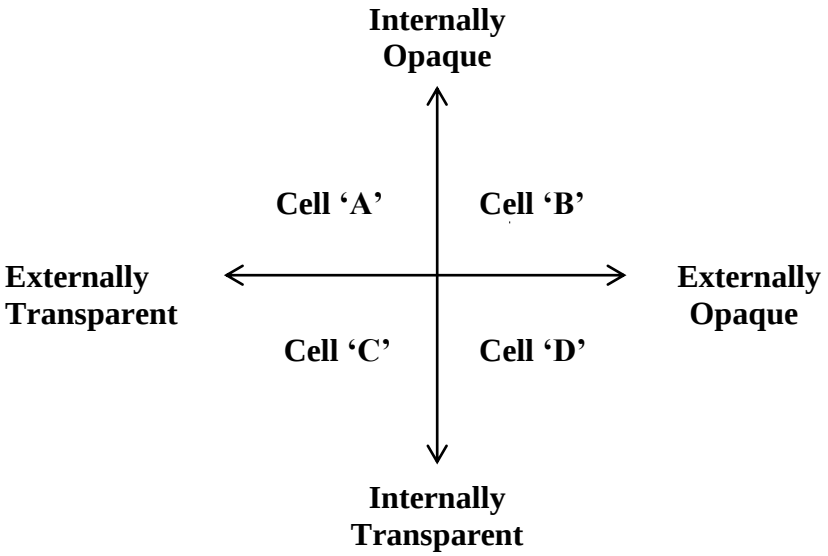


Figure 6: Four patterns of transparency

Obviously, a questionable decision in Cell 'C' is not the same as a questionable decision in Cell 'B'. In fact, we need to assure managers of such differential treatment by providing for the same in the relevant Act and the Rules framed thereunder. This will relieve transparent managers of unwanted fear.

This will also encourage whistle-blowing, 'the action of a person in an organization calling attention to the illegal or immoral behaviour of others in the organization or of the organization itself'.[232]

Often employees are in a dilemma when it comes to whistle-blowing. Louis M Seagull explains:

> The unequal moral standing stems from the fact that blowing the whistle, especially in a public way, rather than an internal one, also violates an employee's ethical obligation of loyalty to the organization. From the corporate perspective, the employee should report his or her concerns internally before or instead of "going public" with them.[233]

With staff meetings taking place as we have foreseen, employees will feel comfortable to blow the first whistle internally and, if necessary, the second whistle externally. Internal whistle-blowing will facilitate managerial activism against corruption. External whistle-blowing, too, will be factual as the whistle-blower will stand a good chance of being informed herself.

The Citizen's Charter provides another way to ensure clean and productive organisational culture.

First tried by John Major in Britain in July 1991, the idea is increasingly popular in many countries these days. When a public office issues the Citizen's Charter, it specifies its service standards and promises the citizenry to meet them. Usually redress is also offered in the event of the promise being unfulfilled.[234]

In Nepal the Department of Commerce has taken the initiative in issuing the Citizen's Charter by promising its clientele service delivery within the specified time. Others, eg District Development Committees of Chitwan and Nuwakot, have followed suit.

Specifying service standards is limiting in a sense, though. In much the same way as job descriptions define the scope of work, service standards define the extent of improvement. Moreover, while much in use these days, service delivery and similar terms sound little. Extension, help and empowerment carry more meaning. Public servants are not just service-providers; they are agents of development. Therefore, while the Citizen's Charter will help them remain transparent, our offices will have to go beyond the same – beyond guaranteeing regular services to generating new opportunities and beyond rationalisation to renewal.

Still another way to ensure clean and productive organisational culture is to make it mandatory for government offices and all other publicly funded units, including NGOs, to report on their activities. Such a report may contain the auditor's report as well. The heads of local-level offices may be required to present their report at the meeting of the appropriate local elected body and also make the same public. The local elected bodies may be advised to form sectoral panels of stakeholders and invite the concerned panel to attend such meetings. It is important that such panellists are encouraged to ask questions and offer suggestions as well as observations.

Parliamentary committees may also be advised to do the same in the case of central-level offices, including ministries and other managerially self-contained subsystems.

When we demand transparency both internally and externally, people, including the top brass, will have difficulty hiding their dubious deeds. But it would be naïve to assume that all of them will suddenly turn saints. Indeed, there will be many, especially those close to the last quarter, who will be helping themselves to our national treasury unless we keep our eye on their 'personal treasury' as part of our next, and really decisive, move to drive out corruption.

Box 12: The Power to Cut Parcels Open

Who has the power to tear parcels open, the postman or the customs officer?

Long ago, a colleague of mine worked as a 'postman' in Kathmandu. In those days, the General Post Office had to cut parcels it received from abroad open in witness of a representative of the Department of Customs, among others. My colleague, who had just joined the civil service then, could not see the rationale of this practice. Moreover, the customs officer rarely came on time and, when he did, behaved as if he was supervising others.

One day, having tired of waiting for the customs officer, those present decided to tear the day's parcels open. By the time the customs officer arrived, all parcels were opened already. As the customs officer reminded them that such parcels were supposed to be cut open in his presence, this colleague of mine reminded him that it was his duty to be on time and that he was expecting him to apologise for the delay.

Later, as the Department of Customs made an issue of it, the Department of Postal Services contended that the power to cut parcels open essentially lied with the postman and that His Majesty's Government had trusted the Department of Postal Services no less than the Department of Customs.

The issue was debated at various levels for many months until the Department of Customs came to terms with the Department of Postal Services.

3.5 Institutionalise the indirect method of detecting corruption and estimating the cost thereof

Demographers use direct and indirect methods for estimating certain demographic parameters, eg the mean age at first marriage. They have found that, under certain conditions, the indirect method yields more reliable estimates of such parameters than the direct method. The same is true of corruption.

A corruption cost statement is very much comparable to a cash-flow statement which is prepared by putting all sources of cash on one side and all applications of cash on the other. Likewise, a corruption cost statement may be prepared from the source end and also from the application end. The direct method has its search area around the former, while the search area of the indirect method is around the latter. And just as the two sides of a cash-flow statement total the same, so, too, is the cost of corruption arrived at by using the indirect method theoretically equal to that arrived at by using the direct method.

Suppose that a chief district officer makes Rs 500,000 by certifying the arrival of salt in a remote district, thereby allowing the contractor to dispose it of at the source and still claim for reimbursement of the costs of transporting the same to the destination from the government as part of the government's policy of ensuring the supply of iodine-loaded salt everywhere. This case of corruption can be detected in two ways.

First, as always, somebody informs the anti-corruption agency about the same. While verifying with the people and others, the investigator comes to know that the salt which was supposed to be available for sale in the district did not actually reach the destination and the chief district officer's certification was ill-intentioned.

On knowing the reality, the investigator argues that the chief district officer cheated the government and considers Rs. 500,000 to be the cost of corruption due to her. This is the direct way.

Alternatively, the moment the chief district officer receives this Rs 500,000 from the contractor, her cash increases by that amount. So, assuming that the chief district officer has taken this Rs 500,000 home, one can hope to find the same there. Furthermore, if the chief district officer has Rs X in cash and she is asked to account for this Rs X in cash, she will be able to account for Rs (X – 500,000) only. This means that, instead of bothering about everything else, the investigator can go straight to the chief district officer's place, ask her to account for all of her cash and consider the unaccounted for Rs 500,000 as illicit income. This is the indirect way.

The estimated cost of corruption due to the chief district officer is Rs 500,000 as arrived at under both methods. This is because an application of cash (and this also means cash itself) has a source of cash or vice versa.

What if the chief district officer did not hold this Rs 500,000 in cash and bought some property with it? The investigator can still trace the source of cash from the application end. Suppose that the chief district officer bought a piece of land with this Rs 500,000. Now the investigator can ask her about the source of money that came to buy the land. When cash is converted into some other property, the application of cash becomes even more conspicuous.

Even if cash is not applied to some tangible property and is used for consumption purposes, it will not be difficult to keep track of it. Suppose that the chief district officer used the money to finance her son's study at an exceptionally expensive school. The investigator can, again, ask the chief district officer about the source of the money that comes to pay for her son's schooling.

The indirect method of uncovering corruption and estimating the cost thereof is based on two implicit assumptions, though. One is that people are paid fairly. In our example, if the chief district officer's salary was low and she spent the money in maintaining the minimum level of consumption, there will be nothing for the investigator to detect at her home. But given that her salary is liveable, anything she gets beyond that is bound to

spill over either in terms of consumption or in terms of accumulation. Another is that the cost of corruption is large enough at a time or over a period.

The indirect method has several advantageous features.

> (a) Discriminatory in nature: Innocent people needn't worry.
>
> (b) Extensive in reach: Investigators can reach up to the 'sponsor of corruption', so that she cannot hope to be 'dry over water'.
>
> (c) Sensitive in effect: Anti-corruption action becomes socially sensitive as it is based on clear evidence. Being such, anti-corruption action works against social tolerance of corruption, as well as counteracting its demonstration effects.

Several countries have attempted to prevent corruption by providing for this type of preassessment system through constitutional or other legal means.[235]

Ghana provides an example. As W Paatii Ofosu-Amaah, Raj Soopramanien and Kishor Uprety write:

> The 1992 Ghana constitution … requires any person who holds a public office to submit to the Auditor-General a written declaration of all property or assets owned by, or liabilities owed by, him or her, whether directly or indirectly, before taking office, at the end of every four years, and at the end of his or her term of office. Such declaration can, on demand, be produced in evidence before a court of competent jurisdiction, a commission of inquiry, or an investigator appointed by the Commissioner for Human Rights and Administrative Justice, which is a constitutionally mandated position. Based on the comparisons undertaken, any property or assets acquired by a public officer after the initial

> declaration and that is not reasonably attributable to income, gift, loan, inheritance, or any other legitimate source is deemed to have been acquired in contravention of the constitution.[236]

The indirect method is not new to us, either. The Corruption Prevention Act 1960 had also provided for 'inferred offence', whereby a charge of illicit enrichment could be brought against a *rastra sewak*. But this provision remained virtually 'dormant' until the Act itself was repealed and a new Act – the Corruption Prevention Act 2002 – was promulgated. Just now, the Commission for the Investigation of Abuse of Authority has taken the initiative in investigating the complaint of illicit enrichment under the new legislation.

For all these years, however, we have relied on the direct method. Perhaps we saw consistency in the direct method.

The direct method was consistent in many ways. First, it was consistent with the established method of proving guilt which gave importance to facts that have a direct bearing on a case. Second, it was also consistent with the auditor's approach to verification, especially in financial transactions. Finally, it also went together with the 'bureaucratic desire' to ensure compliance with 'instructions'.

The direct method is non-discriminatory in nature, however. Non-discriminatory methods may be appropriate in the case of reward but are often dangerous in the case of punishment, for they do not allow innocent people to claim innocence. As a result, the direct method usually has several dysfunctional consequences. People tend to play things safe, pass on responsibilities and mistrust each other. In fact, if our efforts to control corruption have failed because of a single reason, they have failed because of their reliance on a single method.

The indirect method apparently presents some problems, though. One problem is methodological. Reviewing legal provisions and related procedures around the world, Ofosu-Amaah, Soopramanien and Uprety conclude that 'a generally

accepted methodology for verifying the information contained in the declaration of assets and liabilities does not exist'.[237]

Another problem arises due to the possibility of hiding unearned wealth within one's family and beyond.

Some national laws have attempted to provide, in relation to the offenses of bribery and unexplained excessive wealth, that, where there is reason to believe that any person was holding assets on behalf of a person accused of corruption or to have acquired assets as a gift from such accused person, those assets shall be presumed to have been in the control of the accused.[238]

Therefore, there is a need for institutionalising the indirect method in a judicious manner. Institutionalising the indirect method does not mean that we have to do away with the direct method. If a public servant is caught with his fingers in the till, one does not need to assess his assets and liabilities. Moreover, the direct method is sensitive in detecting corruption. Unlike the indirect method, it does not require the assumption that the cost of corruption be large enough at a time or over a period. For instance, if a government doctor asks for Rs 500 from you to issue a clean bill of health and you can complain directly, he can be brought to account. But if there is no system for such complaint and the only way to uncover corruption is indirect, through the spill-over effect, this Rs 500 is likely to be lost within the doctor's pocket.

Fishermen have long learnt to use two types of net – large and small – for catching fish. If the indirect method is the large net, the direct method is the small one. Like fishermen, we need both to catch hold of different types of defaulter.

Many factors may determine the choice of one or other of the two methods. In my opinion, two factors – the cost of corruption and the nature of evidence – are important (Figure 7).

Nature of Evidence	Cost of Corruption: High	Cost of Corruption: Low
Broad	**'A'** Indirect	**'B'** Indirect + Direct
Specific	**'C'** Direct + Indirect	**'D'** Direct

Figure 7: Bringing methods to bear on cases

In a Cell 'A' case, where the cost of corruption is high and the nature of evidence is broad, the indirect method can be effective as high cost of corruption leads to detectable spill-over effects and broadness dilutes evidence.

By contrast, specific evidence that can establish guilt more clearly than thin spill-over effects makes a Cell 'D' case amenable to the direct method.

Cells 'C' and 'B' provide cases where both methods can be used to supplement one another.

In a Cell 'C' case, the specific nature of evidence can provide a good starting point and, since the high cost of corruption can be expected to have conspicuous spill-over effects, the indirect method forms a desirable cross-check. Quite conceivably, it would be totally unwise to arrive at any conclusion based on the direct method alone in a Cell 'C' case. Our earlier conclusion that the concerned *rastra sewak* should have the right to challenge the investigator to scrutinise his assets as proof of his innocence at any point of time in the process of investigation or during court hearing is especially relevant to such a case.

A Cell 'B' case is not evident in terms of both cost and proof. Indirect verification followed by some sort of direct check may be the preferred way of dealing with such a case. This is because the low cost of corruption is likely to take some time to accumulate before leading to detectable spill-over

effects. Once spill-over effects are detected, it will be easy to narrow down the search area for specific evidence as well.

I may add that the meaning of 'case' is not restricted to a case of corruption. As used here, a position, an organisation or even a profession can also be considered to be a case, or rather, a case where one or other of the two methods may have relative effectiveness.

For instance, a Customs Check-point may be a Cell 'A' case, while a Traffic Check-point may be assigned to Cell 'B'. Likewise, if one considers a national motorway project as a Cell 'C' case, one may consider a rural feeder road project as a Cell 'D' case. By level, a *subba* may often belong to either Cell 'B' or Cell 'D', while a secretary may often belong to either Cell 'A' or Cell 'C'.

The point is that we need to be aware of the appropriateness of the two methods under different conditions and, more important, of the possibility of using both whenever there is an element of doubt.

Now, we may consider the ways of operationalising the indirect method. In doing so, we may say that a public official will have two statements: an income statement and a balance-sheet.

The income statement will show the yearly income and expenses of a public official. In much the same way as done in a business, the income statement of a public official can be prepared with the means of living, eg salaries, interest and dividends as well as the costs of living, eg food, accommodation and education.

The means of living may be shown under two broad headings: on-the-job (eg salaries, allowances, etc) and off-the-job (eg rent, net income from the farm, etc). Similarly, on the costs of living side, all verifiable costs of living (eg electricity, communication, etc) may be classified as 'verifiable' and all non-verifiable costs of living (eg food, ceremonies, etc) as 'non-verifiable'.

The income statement of a public official can be drawn up at the family level. In other words, the family, as defined in Clause 'D' of Section 2 of the Civil Service Act 1992, or elsewhere as applicable to the concerned public official, can be the right unit of analysis for this purpose.

While preparing the income statement at the family level, the net income pooled in by other members doing jobs or business will have to be added, with appropriate source codes (eg ID number or IT PIN), to the total income of the public official.

When the family income statement is prepared, there will be two possibilities.

One, the costs of living add up to the total of the means of living or below. Should this be the case, the family may be labelled 'living within means'.

Two, the total of the costs of living part is more than that of the means of living part. This may be due to (a) occasional variations in the costs of living or (b) the costs of living being regularly in excess of the means of living.

In the first case, the deficit may be offset by entering a source of money (eg a borrowing from the Staff Provident Fund) and the family may still be labelled 'living within means'.

In the second case, the appropriate label will depend on the extent of the deficit – whether the deficit is up to a limit or beyond. If the deficit is up to a limit, the appropriate label may be 'living beyond means'. But if the deficit exceeds that limit, 'living with unexplained means' may be the appropriate label.

The idea of this differentiation is to accommodate errors of omission, if any.

But what could be such a limit of differentiation? While it is difficult to answer this question, I think that a deficit not exceeding twice as much the total of the means of living may be reasonable.

In this way, the three labels in the remarks part of the family income statement will be as follows:

(a) Costs of living ≤ means of living = living within means, a label indicating fairness

(b) Costs of living ≤ twice the means of living = living beyond means, a label indicating a state of doubt

(c) Costs of living > twice the means of living = living with unexplained means, a label indicating corruption.

When we will be used to these labels, we may start calling simply labels ‘A’, ‘B’ and ‘C’.

The family income statement detects spill-over effects on family consumption. In order to detect spill-over effects on family accumulation, we need to prepare the family balance-sheet which is similar to the balance-sheet of a business.

The family balance-sheet can be drawn up with all liabilities on one side and all assets on the other.

The assets side may be prepared under two broad headings: ‘inherited’ and ‘earned’.

On the liabilities side, the total value of inherited assets may be shown as ‘inheritances’ and the total value of earned assets as ‘surplus’.

If the family has inherited loans, then the total value of inherited assets will have to be shown on the liabilities side under (a) ‘inherited loans’ (to the extent of the amount of such loans) and (b) ‘inheritances’ (what remains after deducting the amount of inherited loans from the total value of inherited assets).

In this way, the first family balance-sheet may be done.

The family balance-sheet may be prepared every year together with the family income statement. Also, when we prepare the family income statement, we prepare it anew because it covers the income and expenses during a period. But when we prepare the family balance-sheet, we simply update it because it covers the accumulation of the family over an unspecified period (over generations even).

There are mainly six types of change that may need to be accounted for while updating the family balance-sheet.

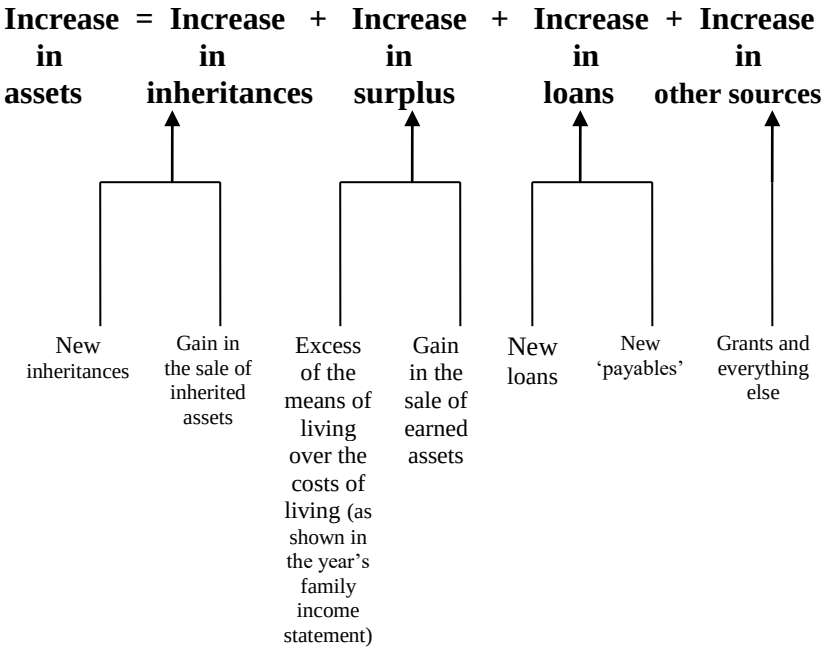
- Transfer: For example, cash is used to buy a car.
- Settlement: For example, an inherited building is disposed of to redeem an inherited loan.
- Loss: For example, a PC becomes obsolete.
- Gain: For example, a parcel of land is disposed of well above its purchase price.
- Diminution: For example, cash is spent on a marriage ceremony.
- Augmentation: For example, cash is increased due to the year's surplus.

Some of these changes can occur in the family balance-sheet regardless of the family income statement, while others may affect the family income statement as well. In any case, the totals of the two sides of the family balance-sheet are always equal.

The family balance-sheet provides a reliable basis for monitoring how a family's wealth is created. This is because we now know the value of assets. We also know what portion of this value was inherited and what was created out of surplus or against loans or other sources. More succinctly, we know:

Assets = Liabilities (Inheritances + Surplus + Loans + Other sources)

Given a family balance-sheet as of the end of a year, where assets are equal to liabilities as shown in the above equation, we can explain an increase in assets during the following year as follows:



Needless to say, a decrease in assets can also be explained likewise.

Now, an increase in assets that cannot be explained in this way may be labelled 'unexplained' and assumed to have come from an illicit source.

Thus the remarks part of the family balance-sheet may also have three labels.

(a) Increase in assets = increase in liabilities = building within means, a label indicating fairness

(b) Increase in assets ≤ twice the increase in liabilities = building beyond means, a label indicating a state of doubt

(c) Increase in assets > twice the increase in liabilities = building with unexplained means, a label indicating corruption.

When we capture information on corruption and ascertain the cost thereof as above, we will be in a position to take appropriate anti-corruption action against a corrupt public official. There are a few concerns that need to be addressed, however.

(a) The concern about the practicability of accounting

The first concern is about the practicability of accounting for family consumption and accumulation with all those details.

I think that these family financials are intended to give a fair view of family consumption and accumulation. So, as long as they are prepared following some generally accepted principles, they serve their purpose by providing a basis for verification. Accountants know best. They will work out these statements and the guidelines for preparing them in simple, user-friendly fashion. In other words, it is not necessary for a public official to remember how much sugar his family bought in a year to fill out the family income statement form. He can give a fair view of the costs of food based on the family budget.

From the angle of the organisation, there are verifiable expenses which can be used to 'calibrate' non-verifiable expenses. If a public official spends Rs 100,000 in a year on communication and reports that her family lived on Rs 20,000 in the year, nobody will believe her.

Nor will the initial valuation of assets matter. Suppose that two public officials have inherited identical parcels of land. Suppose further that the parcel belonging to the first official is valued at Rs 500,000 and the parcel belonging to the second official is valued at Rs 700,000. The initial family balance-sheet of the first official will show land worth Rs 500,000 on the assets side and the same amount as inheritances on the liabilities side, while the initial balance-sheet of the second official will show Rs 700,000 in the same way.

Now, suppose that both dispose their parcels of land for Rs 600,000. The increase in cash will be the same in both cases. In the case of the first official, Rs 100,000 will be accounted for as gain in the sale of inherited assets and added to 'inheritances'

on the liabilities side. In the case of the second official, Rs 100,000 will be accounted for as loss in the sale of inherited assets and deducted from 'inheritances' on the liabilities side.

Thus, as long as the quantity or area is correct, any discrepancies in valuation of assets for the purposes of preparing the family balance-sheet for the first time can be ignored. Only afterwards, when updating the family balance-sheet, will valuation of assets become crucial. Even then, certain standards may be used to benchmark reported valuation.

For example, District Land Revenue Offices have official valuation of different types of land for the purposes of calculating the registration fee. By making their process of valuation more market-sensitive, any under-reporting can be checked automatically. Similarly, the Department of Housing has official norms for civil construction. With appropriate adjustments to them, the costs of building different types of house in different types of location can be worked out and used for cross-checking purposes. Even the range of income from the farm in a particular year can be specified using data generated by farm surveys and given the types of crop as well as the area of land.

(b) The concern about the appropriateness of the unit of analysis

The second concern is about problems involved in taking the family as the unit of analysis.

One such problem is definitional. If we define 'family' in a broad sense, eg to include in-laws, we will be making it too complicated to be practical; if we define it in a narrow sense, eg to exclude members living together, we will be making it too simple to be meaningful.

The definition I suggested earlier is a common one and is also somewhere between these two extremes. In my opinion, this should serve our purpose to a reasonable extent as hiding beyond the family thus defined will have its own risk.

Two additional problems arise when many members are earning in a family. These problems have to do with unintended

effects: the possibility of implication and the possibility of laundering.

The problem of implication arises when not all earning members are clean in a family. For instance, a corrupt son's luxuries may implicate the father who has remained dutiful throughout his long career.

The possibility of laundering money exists because of a family-owned business. For instance, if a minister wants to bring home unearned money, she can put it into her husband's tea estate and pool the same to her family income statement as net means of living generated from the estate.

The problem of implication can be avoided by giving public servants options for reporting. If the father in our example so desires, he can delineate his part of consumption and accumulation. While doing so, he can leave out the means of living pooled in by his son and the expenses funded by the same. Thus if the son is spending an excessive amount of money in educating children, the father will have nothing to do with it. In fact, the two are likely to start living separately in such a situation. Even if they do live together, they can have their separate family income statements.

The balance-sheet can also be done by keeping the inherited part as it is on both sides and by giving the earned part as attributable to either of them. For example, if the family has inherited a house worth a million rupees, the house will appear in the balance-sheet of the son and also in that of the father. For more clarity, such inheritances may be labelled 'inherited assets undivided' (on the assets side) and 'inheritances undivided' (on the liabilities side) so long as the family is not legally separated, and the balance-sheet or the income statement may still be called the family balance-sheet or the family income statement.

This will also solve the problem of all joint families whose members are living separately for years but are not separated legally.

The possibility of laundering can also be checked by subjecting the family-owned business of a public official to scrutiny. Whenever there is a doubtful increase in the means of

living pooled in by a family member who is running a business, the flow of funds of that business can be checked. This can be done readily by preparing a funds-flow statement and reliably as all sources or uses of funds are verifiable. In fact, a check of this type may be built into the regular procedure for assessing and verifying the income tax liability of businesses. Today, income tax officials are often pre-occupied with tax evasion; tomorrow, they will also have to be concerned with 'tax inflation', especially in the case of businesses owned by public officials' family members.

However it is done, any unexplained inflow of funds can be identified as the same and can be deducted from the total means of living pooled in by the concerned family member. Now, any unexplained consumption or accumulation can be ascertained.

(c) The concern about the 'legality' of illegal possession of wealth

The third, and perhaps even more serious, concern is about 'de-legalising', as a matter of principle, the possession of wealth which is unaccounted for.

The illicit enrichment provision was controversial at the Caracas specialised conference of the 34-member Organisation of American States, especially for the United States, during the drafting of the Inter-American Convention Against Corruption, the first international legal framework for combating corruption, which came into force on 6 March 1997.[239]

Under Article IX, states parties agree to establish as an offense "a significant increase in the assets of a government official that he [or she] cannot reasonably explain in relation to his [or her] lawful earnings during the performance of his [or her] functions".[240]

In the United States, and elsewhere for that matter, objections to an illicit enrichment provision are based mainly on two grounds:

First, it means shifting the burden of proof on to the defendant. In the case of the United States, for instance,

Lucinda A Low, Andrea K Bjorklund and Kathryn Cameron Atkinson explain:

> Fundamental due process rights derived from the Fifth Amendment to the U.S. Constitution require that an accused person be presumed innocent until proven guilty. A fundamental corollary to that proposition is that the prosecutor has the burden of proving each material element of an offense beyond a reasonable doubt. That burden cannot constitutionally be shifted to the defendant, although a defendant can bear the burden of proving an affirmative defense.[241]

Second, it means a case of presumptive evidence – ie unexplained wealth is explained as being created by corruption. 'Money … is not a contraband item,' say Low, Bjorklund and Atkinson. 'The official could have acquired the funds from legal sources, or from illegal sources having no relation to domestic or foreign bribery.'[242]

The authors suggest a way out for the United States:

> The United States could possibly avoid the constitutional problems arising from Article IX by providing that only civil liability would attach to any violations of the illicit enrichment provision. Civil penalties do not trigger the same constitutional protections that criminal penalties do. Congress can, and does, create statutory presumptions that shift the burden of production (and arguably the burden of persuasion) from the plaintiff to the defendant. These shifts have been upheld by the courts. While the penalties would be less severe, civil prosecution would give the United States leverage to prosecute suspected corruption without violating the Constitution.[243]

I think that we can also provide for something similar, whereby a public official forfeits 'unexplained accumulation' to

the government but is not liable for prison sentence or penalties other than departmental action leading up to dismissal from service. This will be reasonable in that public officials are required to claim their property, and not necessarily to prove innocence. This will also be consistent with our tradition in which ‘stray animals belong to communities’ and unregistered land belongs to the government.

Nor will the departmental action leading up to dismissal from service unjustifiable, for a public official who possesses unidentified property renders herself untrustworthy.

While apparently lenient, such a provision will greatly simplify prosecution, facilitate action and also help recover part of the cost of corruption quickly.

Family financials will form the basis of anti-corruption action – but they will also enable rewarding cleanliness. Managers can link remarks (on family financials) to action as follows:

Remarks	⟷	**Action**
A state of fairness	⟷	Reward
A state of doubt	⟷	No reward
A state of corruption	⟷	Punishment

In my view, we can build the system into the general process of personnel administration. The personnel section of a managerially self-contained subsystem may be entrusted with the function of creating, verifying, updating, safe-keeping and also acting on family financials of all *rastra sewaks* belonging to the subsystem.

For the managerially self-contained subsystem, administering this ‘financial review system’ will be much the same as administering the performance review system.

Employing both direct and indirect methods will certainly help check corruption. But the essence of controlling corruption lies in self-control, where counteracting institutions of propriety become important and anti-corruption authorities find new roles. This takes us to yet another strategy to deal with corruption.

Box 13: How We Manage Our Marriage Ceremonies

Marriage is common in our country. The institution of marriage has cultural, legal and demographic value – but it also has managerial value. This is because the way in which we organise our marriage ceremonies reflects our indigenous approach to managing.

Marriage is well celebrated by families. A number of tasks and rituals are performed in a co-operative manner, usually by forming voluntary task forces. One may undertake the responsibility for buying goods for dowry, another may choose the task of cooking and still another may prefer to decorate the *mandap* and so on. Many tasks are entrusted to a single person (a 'case worker') or to a pair of persons ('case pairs') as well.

'Nepotism' has no place there save certain rituals. People are entrusted with responsibilities based on their knowledge and experience. Often people want a member of the bride or bridegroom's family to accompany them. But unless the stakes are high, members of the bride or bridegroom's family do not see the need for the same.

These task forces, case pairs or case workers make decisions – spending as well as non-spending. They do so in light of their initial consultation with the bride or bridegroom's family and depending upon what they deem fit as they go along. When goods are bought and brought home, one gives a readily available member of the bride or bridegroom's family a strip of paper, even a cover of a cigarette pack, on which one has recorded which item cost how much rupees along with the money that is left unspent. The member of the bride or bridegroom's family

takes the money back, but hardly does he bother about the strip of paper or about reading what is written there. Usually what is told is taken for granted.

Of course, people view the goods purchased or review the arrangements being made. But everybody does so positively. Whenever a change has to be made, it is made. Yet rarely, if ever, is one's integrity questioned.

A typical upper middle-class family spends Rs 500,000 or something in this way. If we take salaries out, Rs 500,000 is also the amount of annual allocation to a typical district office. But consider the difference in managing a marriage ceremony and a public office. One always generates fun, another unnecessarily makes you fearful.

3.6 Redefine the role of anti-corruption agencies and check counteracting institutions of propriety

As we prepare to entrust the responsibility for checking corruption to managers, we also need to review the role of anti-corruption agencies. Such a review is necessary in light of the fact that the multiplicity of anti-corruption agencies is also part of the problem.

Ideally, with managerial activism against corruption, all but one off-the-line anti-corruption authorities should be done away with. But what will be the 'line' between on-the-line and off-the-line anti-corruption authorities?

Generally speaking, if one presiding over anti-corruption action is a managing official in the normal managerial chain of command or a representative official in the normal democratic chain of control, then one is an on-the-line anti-corruption authority. By this definition, external auditing is off the line, while internal auditing may be both on and off the line. Usually, in a managerially self-contained subsystem, internal auditing is overseen by the subsystem manager and is therefore on the line. But in government ministries, departments and other managerially self-contained subsystems internal auditing is

done by the accounts comptroller-general and secretaries or other subsystem managers have little or nothing to do in that process. When internal auditing is done externally, it is off the line.

Likewise, the National Vigilance Centre is off the line, even if its chief reports to the Prime Minister. This is because the Prime Minister does not preside over its activities. By contrast, the Public Accounts Committee of the House of Representatives is on the line, for it consists of representatives along the normal democratic chain of control.

To take yet another example, the chief district officer is on the line for the purposes of his office - the District Administration Office - but off the line for the purposes of the rest of the district offices.

Now, we said that all but one off-the-line anti-corruption authorities should be done away with. The one we need to retain is the auditor-general. Like evaluation, auditing is an independent function. Of course, one can do one's own evaluation. But then, that is self-evaluation. Similarly, unless we call it self-auditing - or rather internal auditing – auditing cannot be built into the line.

Among on-the-line anti-corruption authorities, the Public Accounts Committee of the House of Representatives has an important role to play. If Parliament is the centre of activities in a democracy, the Public Accounts Committee of the House of Representatives is the centre of anti-corruption activities.

The auditor-general, too, is better appointed at the recommendation of the Public Accounts Committee of the House of Representatives. At present, by virtue of Articles 99(1) and 117(1) of the Constitution of the Kingdom of Nepal 1990, the auditor-general is appointed at the recommendation of the five-member Constitutional Council headed by the Prime Minister. This does not seem to be reasonable. Moreover, the Public Accounts Committee of the House of Representatives should oversee the work of the auditor-general.

With managerial activism against corruption, the Prime Minister is the only manager to blame for corruption in her

administration; with democratic chain of control, Parliament is the only body to blame for any failure to hold the Prime Minister accountable for her action or inaction. This is also consistent with the argument that a democratically elected Prime Minister can only be questioned democratically. In other words, she can only be questioned by the citizen - either through Parliament or through the independent judiciary. The auditor-general will seek clarification from the Prime Minister on behalf of the Public Accounts Committee of the House of Representatives.

The original idea of the ombudsman was also in line with this. As The World Book Encyclopedia explains, the ombudsman was intended to bring Parliament closer to the people:

> Ombudsman refers in the United Kingdom to a public official more correctly called the parliamentary commissioner for administration. The commissioner, appointed by the government, hears complaints by individuals, through a member of Parliament, against government departments and other public organizations.[244]

'The ombudsman stands between, and represents, the citizen before the government,' adds Black's Law Dictionary.[245]

Even on this, I do not think that a democratic government needs someone to represent its people to itself. The members of the Public Accounts Committee of the House of Representatives can have the feel of the problem of the people only when they listen to their complaints directly. If they appoint an ombudsman, they are likely to be forgetful of the same.

The Public Accounts Committee of the House of Representatives has been quite active of late. There are certain problems, however. One, it has immersed itself in detail. Two, its approach has been predominantly negative. Three, it has tended to function on its own rather than through the House of Representatives. As a result, it has been less effective for its

activeness. On occasions, even its scope of work has been questioned.

Thus Parliament may review its own role considering the following:

- the appropriateness of renaming the Public Accounts Committee as 'Public Accountability Committee' with broader scope of work;

- the case for parliamentary focus on policies, principles and general legal provisions rather than on discovering specific cases of misappropriation which are better left for the auditor-general;

- the need for encouraging the auditor-general, local elected bodies and the mass media to play their part in ensuring the accountability of the government;

- the desirability of differentiating non-binding directives of the Public Accountability Committee from binding ones and providing for the endorsement of all binding directives by the House of Representatives; and

- the urgency of reinstating trust between the three branches of government, especially between the legislature and the executive.

Equally important is a review of the role of the auditor-general.

Article 100 of the Constitution of the Kingdom of Nepal 1990 has given the auditor-general the mandate to audit the accounts of all government offices and courts of law as specified by law and having regard to regularity, economy, efficiency, effectiveness and rationale thereof.

In recent years, the auditor-general has taken the initiative in performance-auditing. However, auditing is still mainly limited to verification of accounts. The auditor-general is also criticised for 'counting grains of wheat while the bread is being lost'.

When everything else is changing, auditing cannot remain to be a perfunctory function. The auditor-general needs to reinvent his role as well. He needs to go beyond vouching to performance, beyond safe-keeping to risk-taking and beyond compliance to learning.

These aspects of the new auditing function are well-captured by Britain's Modernising Government White Paper:

> Auditors are rightly interested in whether organisations obtain value for money. We want them to be critical of opportunities missed by sticking with the old ways, and to support innovation and risk-taking when it is well thought through. … In future, people will no longer be able to use audit as an excuse for not delivering more co-ordinated and efficient services.[246]

On the auditor's approach to Modernising Government initiatives, Britain's Public Audit Forum states:

> Modernising Government represents a significant change in the public service environment, and its successful implementation will require new ways of working. The goal of achieving more efficient and effective delivery of public programmes is one that is shared between public sector managers and auditors, and the Public Audit Forum do not want fear of the risks of change to stifle worthwhile innovation designed to lead to improvements. So we encourage auditors to respond constructively and positively to Modernising Government initiatives and support worthwhile change.[247]

Auditing is reinvented at US Air Combat Command, too, thanks to the initiative of general John Michael Loh. David Osborne and Peter Plastrik tell the story:

> Part of the auditing system, each IG's office has hundreds of auditors and inspectors – many of them former law enforcement people – who comb through the organization looking for wrongdoing. Created by Congress in the late 1970s, they are a legacy of the Watergate era. …
>
> Departmental managers have no authority over their inspectors general. But Loh didn't let that stop him. He convinced the ACC inspector general to take on a new role: to help squadrons learn from one another by teaching best practices. When IG teams visit squadrons, they measure compliance required by law … . But they now also share information about what other squadrons are doing well and help squadrons learn how to assess their own processes. Slowly the ACC has begun turning its old auditing system into part of a new learning system.[248]

This does not mean, however, that the auditor-general needs to be lenient. Once again, empowerment may be the appropriate word to use. We need to empower the auditor-general. Empowering the auditor-general means that he can be both lenient and stringent, depending upon the case, his comments matter to managers and he is looked upon as an active promoter – and not as a mere custodian – of public interests.

Part of the problem here is operational: How can we integrate auditing into the normal managerial process of our public sector? I can think of the following:

- there is only one auditor – the auditor-general – and only one type of auditing – the final auditing;

- auditing invariably means performance auditing as well as verification of accounts;

- the auditor-general benchmarks performance, spreads good practices and encourages well-intentioned trials;

- the auditor-general does yearly 'credit rating' of different managerially self-contained subsystems based on creatively devised surveys and issues letters of appreciation to managers who are conspicuously clean themselves and have also succeeded in cleaning up their subsystem, and such letters are valued greatly while entrusting new responsibilities to managers; and

- as well as being an arm of the Public Accountability Committee of Parliament, the auditor-general becomes its resource person, actively helping reinforce democratic checks.

Can we really do without other off-the-line anti-corruption agencies, especially the Commission for the Investigation of Abuse of Authority?

My answer to this question is 'ultimately yes'. However, one additional question needs to be answered before I can say so: Will a busy line manager like a minister or a secretary be in a position to assume the responsibility of anti-corruption authorities?

I think that managers can and should be in a position to do so. Managing essentially involves anti-corruption action. One may even ask: What else managers will have to do if they do not have to control corruption?

Also, managers' involvement in anti-corruption action does not mean that they will have to investigate an allegation of corruption by themselves. This only means that they should take charge of the same. They may do so if they like, of course. But they can also appoint an investigator or form a commission to

investigate an allegation of corruption. In fact, they can appoint a more appropriate investigator or form a better commission drawing members from appropriate disciplines depending upon the case in question.

Nor will managers have to be worried about prosecution. After they have decided to file a case, public prosecutors, aided by legal officers at their ministries or departments or other managerially self-contained subsystems, will be doing the job for them.

Ultimately, therefore, managers can and should do the job of all off-the-line anti-corruption authorities, except that of the auditor-general. In the meantime, though, the Commission for the Investigation of Abuse of Authority may be entrusted with the responsibility for controlling corruption through the indirect method. Ideally, the line should be made fully responsible for controlling corruption in all ways. But even if the Commission for the Investigation of Abuse of Authority, or any other off-the-line agency for that matter, shares the responsibility for controlling corruption through the indirect way, it will do no harm. This is because the indirect method is discriminatory in nature, as we said earlier. Besides, given its expertise, the Commission may assist in institutionalising the indirect method initially.

From the side of the Commission, too, there will be a real role to play. Even today, of all the anti-corruption initiatives of the Commission, the widely acclaimed is the one – and that is the current one – where it has employed the indirect method. Never was the Commission so able to project its image as it is now.

Like the auditor-general, the chief commissioner and other commissioners of the Commission may be appointed at the recommendation of, and overseen by, the Public Accountability Committee of Parliament.

Thus, during the transitional phase, we will have line managers checking corruption directly and the Commission, suitably renamed, checking corruption indirectly. More generally, we will have the Prime Minister checking corruption

managerially and Parliament, assisted by the auditor-general as well as the Commission, checking corruption democratically. Here again, the Commission will be different from the auditor-general in that it will be employing the indirect method, while the auditor-general will be employing the direct method.

In their new role, anti-corruption authorities and managers will share the same vision. While anti-corruption authorities will be seeking to reinforce the democratic chain of control, they will be doing so by remaining manager-friendly. As anti-corruption authorities will be relying on the indirect method as well as the direct one, they will not have to be suspicious of every manager. Nor will every manager have to be afraid of anti-corruption action. We will be seeing clean managers and anti-corruption authorities stand up together for good governance.

This partnership will be profitable when counteracting institutions of propriety are checked alongside. Of the many counteracting institutions of propriety, three are basic: (a) the compensation policy, (b) the promotion system and (c) the electoral process.

(a) The compensation policy

Compensation is a common form of non-discriminatory reward that can have widespread anti-corruption effects. When people can barely live on earned income, they can justify it to themselves that they had to lower their moral barrier to an acceptable level not of their own volition but out of compulsion.

'According to my principle, one has to be practical to an extent.' We often hear such a remark. Those who say so are actually trying to cope with the inner pressure to convince themselves that they are not corrupt, as we also saw in Chapter 1. These 'practical' people have invented many such 'principles': 'Accept only from the happy ones'; 'do a lot for the government and do something for you as well'; and 'take it only if the government is not getting it, anyway'. A colleague was even arguing that *dasturi* was not unfair. 'There is a difference between *ghus khane* and *khus khane*,' said another.

False though it is, poor pay provides the premise for such principles: '…, or else you won't survive', '…, or else you will have to repent later', or '…, or else your children will curse you'. Paying people fairly, or rather competitively, will deprive them of such premise. There will be only two options open to them then: 'Don't accept from anybody else, or accept that you are corrupt'.

Insufficient reward has not a little bearing on social tolerance of corruption. Years ago, Myron Weiner wrote that 'the payment of baksheesh' is 'simply a way that citizens have found of building rewards into the administrative structure in the absence of any other appropriate incentive system'.[249]

To be sure, opportunists will always be there, no matter what we do with compensation. But their number will be small. The majority of people will be at odds with their conscience. And our behaviour cannot be at odds with our own conscience.

When the government suddenly scaled up the salary of its employees by up to 90 per cent in fiscal 2000/1, it really sensitised them to their behaviour. To many, that unprecedented initiative has been of no avail. But I do not think so.

As we have done elsewhere, the top quarter may be assumed to be always clean. Increased compensation has certainly encouraged this quarter. The bottom quarter consists of opportunists. These people are always less likely to respond to non-discriminatory reward, anyway. Their moral barrier has been lowered to such an extent that they are not easily put up. They need to be addressed in a number of ways. The rest responded readily, at least initially. If they found it easy to pass over their conscience later, it was mainly because the decision became controversial as soon as it was taken. Rumours spread that it was simply beyond the capacity of the government, it would lead to hyperinflation and so on. The government was also alleged that it favoured its employees at the cost of the poor people.

Meanwhile, the minister for finance who was the chief architect of the policy lost his portfolio. There were also

rumours that he escaped the problem on his own and nobody was willing to accept the finance portfolio.

Finally, and unfortunately, the Public Expenditure Review Commission recommended that the salary of all government employees be frozen for 10 years, that they be compensated in terms of allowances (so that the burden of benefits that were contingent on salaries could be limited) and that a maximum limit of five per cent a year be considered in case it is desired to compensate them in terms of salary increments.

With the new hope of living a liveable life effectively dashed, many of these disappointed people found themselves free to postulate new principles to resort to their old habits. 'I've never claimed that I'm milk-washed myself, but one has to have one's own limits.' This is the new 'moral' standard for many these days. What a painful standard!

Even so, I do not agree that the decision to hike pay up to the present level has not paid off. Often we look for change in those offices where the bottom quarter tends to concentrate. Ask an auxiliary postman, ask a primary school teacher and ask all others who are toiling over their work in low-profile offices, and you will see the salary effect.

Once again, the ability-to-pay school of thought prevailed. Sadly, this school of thought fails to take into account public servants' ability to perform and stay clean. Also ignored is the reality that the 'poor' people are paying for the poor pay of government employees – not only in terms of bribes, but also in terms of lethargy, negligence and the like.

This school of thought actually subscribes to at least two of Jeffrey Pfeffer's six dangerous myths about pay: (a) that labour rates are the same as labour costs and (b) that cutting labour rates will lower labour costs.[250] Dwelling on why the myths exist, the author adds:

> It seems a lot quicker and easier to cut wages than to control costs in other ways, like reconfiguring manufacturing processes, changing corporate culture, or altering product design. Because labour costs appear to be

> the lever closest at hand, managers mistakenly assume it is the one that has the most leverage.[251]

It is therefore imperative for us to recognise the anti-corruption value of compensation, as well as not confusing labour rates with labour costs.

This does not mean, however, that the government should keep on increasing the pay of its staff. In my opinion, government employees, like the employees of other organisations, should be compensated competitively – neither below nor beyond the going rate (adjusted, of course, for post-retirement benefits and all), even if the government has the ability to offer better compensation. If a young university graduate chooses to join the civil service, she should do so because of the level of compensation, career opportunities and opportunities to serve the people being as attractive as elsewhere, and not in the hope of making money otherwise.

Many of us are apparently obsessed with the idea that the government cannot compensate its employees competitively. But this is not so. Competitive pay is the norm in such developed countries as Japan and America.

In Japan, for instance, 'to guarantee and maintain a high degree of efficiency among its employees, the state offers pay and retirement benefits similar to those in the private sector'.[252] Civil servants' 'salaries are generally comparable to those in the private sector' in America, too.[253]

Among developing countries, Singapore is long-known for paying public servants at a premium. '… [P]ublic sector salaries in Singapore average 114 percent of those in the private sector, and in fact senior Singaporean civil servants are better paid than their U. S. counterparts.'[254]

Uganda is one of the developing countries where the government is committed to paying civil servants fairly as part of its reform initiative.

> Between 1990 and 1994, civil service wages [in Uganda] increased by approximately 50 percent per year.[255]

Nor is such a situation very difficult to come by in Nepal. 'Reduce the number of employees and raise their pay.' For several years now, we have been saying this and we have been trying this. Yet our efforts have not led us very far. In fact, we need to rethink restructuring, or rather, our approach to restructuring.

Writing for business, Hammel and Prahalad warn that getting smaller or even better is not enough. The authors lay stress on getting different:

> A company surrenders today's businesses when it gets smaller faster than it gets better. A company surrenders tomorrow's businesses when it gets better without getting different.[256]

Tony Blair echoes something similar for government:

> The old arguments about government are now outdated – big government against small government, interventionism against laissez-faire. The new issues are the right issues: modernising government, better government, getting government right.[257]

No longer is the size of government considered to be the main issue. Today, the main issue is how to achieve better government, different government. We have so far acted as if downsizing was all we needed to do.

Moreover, our approach to restructuring often involved hurried closures, mergers and golden handshakes. By closing the National Population Commission, we simply felt the need for the Ministry of Population and Environment; by merging three ministries together, we simply created an overcrowded ministry – the Ministry of Industries, Commerce and Supplies – and by luring people out, we simply increased the pension liability of the government. That is not very effective restructuring.

Effective restructuring means improved productive capacity as well as reduced number of people. This calls for an alternative approach to restructuring: retain all doers and get rid of all 'non-doers'.

There are two types of non-doer: (a) one who does the unnecessary thing and (b) one who unnecessarily does the necessary thing.

Those who do the unnecessary thing are often off-the-line controllers - 'checkers', 'inspectors', 'watchdogs', choose your term.

Unless done as part of the normal managerial process, their functions are unnecessary. The accountant does book-keeping. His superior oversees the same. The final auditor will verify everything later. Now, if the internal auditor comes to 'check' the accountant's work, she comes to do nothing. Teachers teach students. The headmistress sees to it that her colleagues are all together with her. What is the school inspector for? The Customs Check-point collects revenue. The Department of Customs supervises its operation. Now, is there anything left to do for the Department of Revenue Investigation?

And those who unnecessarily do the necessary thing are the so-called staffers. Agencies which are created to perform such non-trading functions as ensuring co-ordination, advising on policy and monitoring are also non-doers. These people or agencies have some work – very important work indeed – to do but they tend to overdo such work, often overshadowing the role of the doer.

Planning is an essential function, but so is putting the plan to practice. Preparing a disaster management plan in Kathmandu may actually be easier than rescuing people in the event of a disaster in the field. In neighbouring Dhading, for instance, a whole rescue team led by my colleague lost their way for six or seven days, nearly starving themselves, following the massive flooding of 199(?) which had swept away houses, access tracks and *tuins* everywhere around the area of their work.

Do we need a full-fledged ministry – the Ministry of General Administration – to do personnel administration? Can we justify

an evaluation division as well as a planning division at the Ministry of Agriculture and Co-operatives? Is there anything left to do for the Tourism Development Board given that we have the Ministry of Culture, Tourism and Civil Aviation?

Among such non-doers, those who do the unnecessary thing should be done away with. Better still, they should be converted into doers. Thus ticket checkers may be changed to bus conductors, internal auditors may start doing book-keeping and school inspectors may be trained for school teachers.

As for those who unnecessarily do the necessary thing, we should make sure that there are no more of them than absolutely required. We may have a National Planning Commission supported by 10, 15 or 20 well-trained secretariat staff instead of some 350 at present. We may close down the Ministry of General Administration by transferring all the functions of a central personnel agency to the Prime Minister's Office. The Prime Minister's Office, too, will not need to set up a large division to discharge these functions. A total of five or six people will be sufficient. If not, maybe we can make it 10 or 12, but certainly no more than that. Our ministries will be sharing much of the personnel work.

Nor will our ministries have large personnel divisions or planning divisions or evaluation divisions for that matter. There will be small units drawing on the line and external resources, as necessary. Many of these functions may well be built into the line. The 'doing' division can and should do much of its own planning, personnel administration, co-ordination, monitoring and 'self-evaluation', and so on.

Enabling line-managers to undertake 'staff-responsibilities' is also the way out of a situation where 'the shifting the burden to the intervener' system archetype is operating. Says Senge:

> Interactions between corporate staff and line mangers are fraught with shifting the burden structures. For example, busy managers are often tempted to bring in human resource specialists to sort out personnel problems. The HR expert may solve the problem, but the manager's

> ability to solve other related problems has not improved. Eventually, other personnel issues will arise and the manager will be just as dependent on the HR expert as before. … Over time, HR experts become increasingly in demand, staff costs soar, and managers' development (and respect) declines.[258]

When staff-functions will be increasingly performed by the line, many planners will find themselves turned practitioners, or rather, planners-cum-practitioners, evaluation will also mean self-evaluation and personnel by managers will be as common as personnel for managers. This will enable us to release resources for competitive compensation and also to release people for results.

Restructuring with upward bias is not easily done, however. This is partly because those who are involved in restructuring are often non-doers themselves.

In business many leaders have done it. Percy Barnevik of ABB provides a legendary example. Peters tells the story:

> In 1980, Barnevik moved from head of U. S. operations for Sweden's Sandvik … to that country's industrial giant Asea. He inherited a central staff of 1,700, which he pruned to 200 in about 100 days. … Merging Asea with Switzerland's Brown Boveri et Cie in 1987, he slashed the Brown Boveri's headquarters staff from 4,000 to 200. The Finnish arm of ABB, ABB Stromberg, had a central staff of 880 when Barnevik took over. Today it's 25.[259]

Jack Welch, another celebrated business leader, did the same at the General Electric. Handy writes impressively:

> In three years, from 1982 to 1985, General Electric in the USA reduced its total workforce of 400,000 by 100,000 and its turnover rose. The people who left were mostly staffers, not factory-floor workers and were,

apparently, just not necessary; they were expensive luxuries, desirable no doubt but dispensable.[260]

Will we have leaders – government leaders and also business leaders – who will similarly line up with the doer?

(b) The promotion system

I may also add here that discriminatory reward can be converted into non-discriminatory reward or vice versa.

Thus the annual salary increment, a common example of non-discriminatory reward, can be converted into discriminatory reward by relating it to performance records. The usual practice is to allow the non-discriminatory salary grade to go as it is and also provide for discriminatory shifts for better performers. Since the ceiling is the same and everybody is going to hit it in due course of time, rewarding better performers does not frustrate good performers. Yet better performers can have a deeply-felt sense of recognition. This is the third way – indeed an innovative way – of rewarding people for both performance and cleanliness effects.

We will also have to find one such innovative way of promoting people, so that our promotion system does not remain to be a counteracting institution of propriety. As we said in Chapter 1, every year, honest people are turning dishonest. They are doing so partly for want of sustainable life and partly out of a hopeless career. When people are working for 15, 20 or 25 years in the same position while their colleagues in their own profession and elsewhere have already moved up to senior positions, they find themselves alienated and driven to despair. Many try to cope with such a painful state of life by compensating career failure with ‘economic success’.

‘The harsh reality is that you cannot promote everybody to secretary,’ said a senior colleague some time ago. ‘Maybe you can think of horizontal promotion.’

By ‘horizontal promotion’, he meant better jobs – better scope of work, better opportunities for training and better power position – at the same level.

Handy calls it horizontal fast-track, a succession of different jobs, real jobs with tough standards to be met, but all at the same level.[261] He also dwells on the folly of ladder-thinking.[262]

Today's organisations should not be structurally handicapped to respond to the fast-paced market. This calls for fewer layers, faster communication and frequent consultations. Organisations are therefore increasingly and necessarily de-layered, decentralised and even disorganised. Handy discerns three emerging forms of organisation, one of which he calls the shamrock organisation. The shamrock is the Irish national emblem, a small cloverlike plant with three leaves to each stem.[263] Handy uses it to symbolise three groups of people in today's organisations: the core, the contractual fringe and the flexible labour force.

The core, or what Handy prefers to call the professional core, is the main group of the organisation. The organisation is identified with this group. Those who belong to this group perform by themselves, by contracting out jobs to self-employed people constituting the contractual fringe and also by getting temporary or part-time help from the flexible labour force.

Life in the core of more and more organisations is going to resemble that of consultancy firms, advertising agencies, and professional partnerships.[264]

With de-layered structures, it may be counter-intuitive to think of non-discriminatory promotion, or rather, non-discriminatory vertical promotion. Unfortunately, horizontal promotion falls short of promotion. As we said earlier, people do not feel no reward in the absence of reward. Similarly, they cannot be satisfied with horizontal promotion when there are opportunities for vertical promotion as well. Moreover, promotion in this horizontal sense is essentially empowerment which should be the case, anyway.

If we look at it from the other side, we see that complete de-layering is not feasible. Even Handy's shamrock organisations will have layers. Handy actually says:

> The organisations are flat, seldom with more than four layers of rank, the top one being the assembly of partners, professors or directors. Promotion through the ranks comes quickly if you are any good (anyone of ability expects to be a partner before 40).[265]

As long as there are rungs, they form the ladder and ladder-thinking is inescapable, at least for the sincere aspirants. Handy also says that the new professionals constituting the core of the shamrock organisation think in terms of careers, of advancement and of investing in the future.[266]

Government organisations will also resemble the shamrock organisation. The process is already taking place. The Ministry of Population and Environment is largely a shamrock organisation. With some 90 people in its core, the ministry does most of its work by contracting out to the contractual fringe.

Many retired civil servants – administrators and others alike – are now finding themselves acting in the contractual fringe.

Restructuring will leave us with fewer layers. The structure will be less conspicuous than the professional spirit. But just as the Earth is not exactly round-shaped, so, too, will the structure of this new organisation be not exactly flat. It will also be orange-shaped, providing additional career opportunities for the rank and file. This brings us back to the same, frequently discarded, idea of time-bound promotion.

But this time we will consider it differently, in terms of 'reasonably open promotion opportunities'. There are two reasons for this. First, time-bound promotion can mean unqualified commitment on the part of the government which is not fair. Second, time-bound promotion is not so appealing. None of us wants to be promoted merely for some number of years; we all want to be promoted primarily for our efforts.

As I understand, however, even the suggestion that promotion be made time-bound has never represented a mere desire to do senior people a favour. It has always been intended to maintain the working spirit of young people as they grow older.

Do a case study. Find a civil servant who is extremely frustrated on the job. In all likelihood, you will find that he was exceptionally enthusiastic about work for the early five, six or seven years of his career. You are also likely to discover that it was mainly after juniors became superiors and there remained no hope of his moving up that he unknowingly developed a negative attitude towards work.

In many instances, I have also found to my surprise that such a civil servant suddenly changed and regained his positive attitude towards work on being promoted even after 15, 16 or 17 years.

Reasonably open promotion opportunities are not an unrealistic proposition, especially at a time when pyramid-like organisations are giving way to orange-shaped ones. Orange-shaped organisations have more positions towards the middle and we can adjust entry points as well as positions in such a way that everybody has a fair opening.

Thus we can write down a new promotion policy: There shall be at least one promotion for all and additional promotions for many.

According to the new policy, unless disqualified otherwise, everybody will be eligible for promotion after working for a minimum number of years in a position. Better performers will get promotion earlier (in around 10 years) than good performers - but good performers will also get promoted in due course of time (in around 15 years).

Operationally, promotion will be the function of performance and seniority. The full mark for performance will be fixed. To this performance score will be added the value of seniority. If we cannot stop a person from being senior beyond 12 or 14 years, we cannot justify our limiting the seniority score to 12 or 14 years. The seniority score will be allowed to add on as far as it can (ie until a civil servant is promoted).

The good performer will be giving way to the better performer for certain number of years and the opposite will be true afterwards. The exact overtaking point will be determined by their relative position in the performance race.

A few weeks ago, I met a colleague who was a section officer while I was still going to school and is in the same position even today. With this new rule, the total score of this colleague of mine would add up to well over that of the top performer, even if his performance yielded him an average score, more than sufficient for promoting him 'tomorrow'. In fact, if our promotion system had been any good, he would have been promoted years ago, perhaps even before I joined the civil service. And he is not the exception. There are many like him, all of whom would have got at least one promotion, possibly by 15 years and latest by 20 years.

The new policy will ensure at least one promotion towards the middle of one's career, or slightly afterwards, in virtually time-bound fashion. This will apply only to normal entries, however. A lateral entry will be the exception. If a person joins the civil service as a joint-secretary, it may not be possible to guarantee promotion for him. It is also here that the argument of my senior colleague still holds: One cannot make everybody a secretary.

In fact, we have, so far, considered only two of the three generally accepted criteria for promoting people: seniority, performance and ability. It has been found that a good subordinate may not always be an equally good superior – hence the need for assessing ability while promoting people. This has been tried in various ways – by considering academic attainment, by reviewing track records, by taking written tests or interviews, by analysing personality factors and so on.

While ability is important, its importance varies with the level of position. One can expect a good *kharidar* to be a good *subba* as well. But the past performance of an additional secretary may not be a very reliable predictor of his success as a secretary. The same is generally true of non-managerial positions. An assistant lecturer can be safely promoted to lecturer based on his performance records and seniority. But to be promoted to professor, a reader needs to be perfectly qualified. Perhaps he needs to be a PhD, as well as being an academic of some repute.

Therefore, an idea would be to consider promotion to be a function of performance and seniority up to the level of the joint-secretary and as a function of seniority, performance and ability starting from the level of additional secretary. In doing so, an ability score will have to be added to the total of the performance and seniority score in the same manner as the seniority score was added to the performance score.

The often subjective assessment of ability will not matter. Subjective, or rather qualitative, criteria are better than objective ones in many cases – provided that they are applied sincerely. Subjective criteria also provide the necessary flexibility in screening people up. This is also why promotion should be subject to the P2 procedure, as we said earlier.

And, of course, there is the fourth criterion – cleanliness – applicable to all layers.

I may add here that reasonably open promotion opportunities should not affect the present policy of bringing in talent laterally. But the existing system of promoting people by way of internal competitive examinations will not make sense with the new policy, especially when open competitions will also be kept open for those who are already in.

Thus an assistant secretary will retire at least as an under-secretary, more probably as a joint-secretary and probably as an additional secretary. A *subba* will end up being invariably an assistant secretary, frequently an under-secretary and sometimes even a joint-secretary. Similarly, an overseer will also find himself working as an engineer or a divisional engineer or even a chief engineer in his career.

Can we promote an overseer to engineer without the requisite academic attainment for the position? Certainly not! In this age of knowledge work, we cannot even promote a *subba* to assistant secretary in the absence of the minimum academic qualification.

What we can do is first encourage such people to pursue their study further. The government should support them in every possible way, including by sanctioning unpaid leave, half-paid leave or fully paid leave. When fellowships are available,

people may be given half-paid or unpaid leave, so that others who lack fellowships can be supported in terms of half-paid or fully paid leave. There are a number of possibilities.

Ghoshal and Bartlett recommend a new moral contract between a company and its employees:

> In this new contract, each employee takes responsibility for his or her "best-in-class" performance and undertakes to engage in the continuous process of learning… . In exchange, the company undertakes to ensure not the dependence of employment security but the freedom of each individual's employability. It does so by providing employees with the opportunity for continuous skill updating so as to protect and enhance their job flexibility within the company and their opportunities outside.[267]

Given uncertain market conditions, companies cannot guarantee employment, but they can ensure the employability of their people. If the government is a relatively stable organisation and, therefore, in a position to fairly assure its employees of their jobs, it may well do so. But more important, the government should invest in educating its people, so that their employability as well as timely promotion can be ensured.

Unfortunately, even today, many of us keep on talking about restricting people's freedom to leave the government service as a pre-condition for educating them. In my opinion, it is neither desirable nor necessary to cage people in. If there are opportunities for work and advancement, people will not leave the government service – provided that they are free to leave. Even if they do by virtue of their employability, it will not matter so long as they are working in the country and so long as they are lawfully employed elsewhere in the world. Every year, we spend billions of rupees on education, anyway.

So, we can think of a simply literate but immensely talented *parichar* doing SLC and getting her first promotion to *mukhiya* after she has completed certain years of service as well. She will

also be eligible for the second promotion to *kharidar* after she has worked for certain years in this capacity and has also completed 10+2. In this way, she may end up being even an assistant secretary.

Also, if the minimum qualification for the joint-secretary is the Master's degree, as it is now in the case of the open competition, it will be unfair to promote an under-secretary to joint-secretary unless he has done the Master's degree. This is because one's academic pursuit is indispensable for one's success at work. Gone are the days when one could be a graduate in a subject, forget about education then and still hope to be a good secretary. Today, people need to achieve mastery of their subject and be themselves abreast of their field all the time. The knowledge economy leaves little for them to achieve otherwise.

With the policy of ensuring at least one promotion for all and encouraging everybody to pursue further study, we also need to redo our civil service structure (Table 3). (Never mind the number of layers; they are career-opportunity layers, and not necessarily decision-process layers. Decision-process layers can and should be reduced by way of delegation, structural adjustment[268] and so on.)

Table 3: The New Civil Service: An Example of the Administrative Service

Layer	Position	Entry point	Minimum qualification
1	*Parichar*	√	Functional literacy
2	*Mukhiya*	-	SLC
3	*Kharidar*	√	10+2
4	*Naib subba*, renamed *Subba*	-	Bachelor's degree

5	Section officer, renamed assistant secretary	√	Master's degree
6	Under-secretary	-	Master's degree
7	Joint-secretary	√	Master's degree
8	Special secretary, renamed additional secretary	-	Master's degree
9	Secretary	-	Master's degree
10	Chief secretary	-	Master's degree

What about an overseer who finds herself rather unwilling to take an engineering course together with her daughter? We can still, after certain years, promote her to senior overseer, if not to engineer. One does not need to get an academic degree to be a senior overseer. Certain years of working experience plus the fact of being older will do. Promoting senior people in this way will mean that we will have two identities of a position: overseer and senior overseer. We can also think of a better title like 'junior engineer', or 'honorary engineer'. The senior overseer will be entitled to the same salary and perks as the engineer. But she will not be deemed qualified to do what the engineer is deemed qualified to do. The same will be true of the senior health assistant and the doctor or of the senior *subba* and the assistant secretary.

But will the new policy be feasible? I believe yes. It will be feasible economically in that we already have overlapping pay-structures. The salary of a 10-year-old under-secretary is more than that of a new joint-secretary.

A friend of mine once warned me that adding a joint-secretary actually meant adding four people to the government payroll. He counted a driver, a *parichar* and a personal secretary. This is a genuine concern. But I do not think that new joint-secretaries need the old staffing. They will readily share general services, find driving to be fun and certainly will not mind picking up their calls. In fact, Robert Townsend

recommends that every manager do his own secretarial work.[269] Maybe we will have a difference of plus or minus something, but that will not be substantial.

It will also be feasible organisationally in that the manager of the shamrock organisation will have to be more of a team leader than of a workforce commander. Some managers may have difficulties coming to terms with these realities. But for the rest, working in the new environment will be more interesting, more challenging and more rewarding.

(c) The electoral process

The third counteracting institution of propriety – the electoral process – is all the more important. Elections are the best 'check' in a democracy. But elections are as good as their fairness. When elections are unfairly held, unscrupulous politicians reign supreme. Worse still, the people feel powerless and may even lose faith in the corrective power of democracy.

To what extent is this institution of propriety turning counteractive in our case is debatable, though. Given that all new democracies have experienced some problems of electoral manipulation, many of us would consider our problems as common and correctible. I also think that our electoral process is still quite reliable. For these 12 years or so, elections in Nepal have formed majority governments, altered the party in power and enabled small parties to gain influential representation.

With that being said, electoral competitions are becoming unnecessarily expensive, campaign finance is still not transparent and allegations of election rigging are being appallingly heard. Apparently there is every danger of our electoral process turning a counteracting institution of propriety – hence the urgency in safeguarding the same.

Many of the desirable measures, including adoption of the electoral code of conduct, introduction of the voter identity card and bringing in international observers, have already been taken. The voter identity card, which is introduced in a few constituencies as of now, needs to be introduced in the rest of the constituencies as fast as possible.

Also, much remains to be done in campaign finance regulation.

Theoretically, there are at least three main purposes that it can serve. First, it serves to set overall spending limits. Second, it serves to set limits on campaign contributions, including limits on individual campaign contributions. Finally, it establishes disclosure rules and promotes transparency.[270]

Practically, I think that the State needs to support political parties on some reasonable basis, so that they do not depend entirely on business for financing their campaigns. Such support may be channelled through the Election Commission.

At the same time, the Election Commission may impose certain restrictions on campaign fund-raising and require all contesting political parties to be transparent. With the provision of direct campaign-finance grants, political parties will not have difficulty in complying with any reasonable restriction imposed by the Election Commission.

Similarly, booth-capturing and other forms of election rigging need to be discouraged by every means. For example, automatic re-polling may be provided for wherever all but one candidates request the returning officer for the same. But the practicability of these and other measures needs to be assessed as well.

Whatever their practicability, all external measures are at most indicative. They make sense only to the extent that our political parties are committed to ensuring electoral fairness. For instance, we often talk about educating voters. While this may help, political parties need to educate their rank-and-file members first. And I hope that our political parties will be able and willing to do so. After all, the burden of saving the electoral process lies on no one but political parties.

Checking counteracting institutions of propriety is one positive strategy to distract people from wrong deeds. The other, and the final strategic element of our anti-corruption agenda, is to foster the counteracting dependency-contingency economics, to which we now turn.

Box 14: Up against Corruption: Roles for All

Families

- Set examples to children
- Value honesty in speaking and writing

Schools and universities

- Emphasise moral education in curricula
- Inculcate students with optimism

The mass media

- Cover stories of cleanliness and corruption
- Ensure credibility by verifying facts

Political parties

- Reduce party bureaucracy and its financial burden
- Reward honesty among party workers and make it an electoral selling point

Civil organisations

- Act as a pressure group for reform
- Educate voters

The State

- Support political parties in terms of campaign-finance grants
- Rehabilitate social and political workers in destitution

Development partners

- Support reform initiatives
- Keep on demanding ROI

3.7 Foster the counteracting economics of dependency-contingency

Development is the best contraceptive – so say family planners. Development is also the best cure to corruption. As we saw in Chapter 1, social tolerance of corruption at a time in the history of a society may be explained by the socio-economic riches of the society at that time. Unfortunately, corruption is a great 'inhibiter' of development. So, it is no use saying we need development to contain corruption.

Having said that, there are certain areas where development efforts can overcome corruption, ie both goals can be achieved

simultaneously. The leverage lies in those areas. The economics of dependency-contingency is one such area.

Alternatives make a difference everywhere and also in the behaviour of families hard pressed to connive at corruption as part of their survival strategy. Fostering the counteracting economics of dependency-contingency should therefore be our development priority.

The economics of dependency-contingency thrives amidst uncertainties involving food and credit. Food may also be considered to be part of credit. A rich family helping a poor family hardly means more than credit – in cash or in kind (ie food). Therefore, ensuring poor families' access to credit, or food and credit, will counteract the economics of dependency-contingency.

There are two ways to do this: (a) helping the people help themselves and (b) helping the people out of emergency.

(a) Helping the people help themselves

Mutual-aid institutions, such as *parima*, *guthis* and *dharmabhakaris,* have traditionally played an important role in our society. Unfortunately, they are gradually disappearing these days. Even where they are in existence, their role seems to have been limited. *Guthis*, for instance, were called *gostis* and performed a wide variety of functions in the *Lichchhavi* era, as we also said in Chapter 1. But, today, *guthi* activities are mainly limited to *puja, jatra*, funeral services and so on.[271]

I think that traditional mutual-aid institutions, especially those which are non-exclusionary in nature, still have a role to play, not least as part of the counteracting economics of dependency-contingency. These institutions are part of our culture, too. We may, therefore, rediscover them, revive them and support them in various ways. The following may be some of the measures to take:

- allow flexibility in their formation and functioning

- ensure their participation in social and development forums

- support research into various aspects of their role, enabling them to reinvent themselves.

Alongside, poor families may be encouraged to organise themselves into thrift and credit co-operatives. Co-operative thrift and credit activities work by mobilising members' savings to meet their own credit needs. Members are encouraged to save regularly in whatever amounts they can. Usually a member is allowed to borrow three times the amount of her savings. There is no need for collateral. But in case a member needs to borrow more than her specified limit, another member may stand surety for her, thereby extending her limit up to three times the amount of the savings of the two.

Borrowing from thrift and credit co-operatives is often better than borrowing from other formal institutions. First, there are no formalities to wonder. Second, the borrowing costs, including the transaction costs, are lower. Third, borrowing is not restricted to productive needs, ie members can get money to meet any genuine need, such as the need for their treatment or that of a family member.

The best thing about co-operatives is that they are non-exclusionary in nature.[272]

Experience has shown that members' demand for credit is usually more than that can be met by accumulated savings for the initial five-seven years but can be met easily thereafter. Some such co-operatives are actually facing the problem of where to lend money.

The Small Farmer Co-operative, Anandavan, Rupandehi provides an example. By October 2000, the co-operative had altogether 754 members, 654 of them female. Its total outstanding loan amount was Rs 8.5 million and the deposits collected from members totalled around Rs 3.3 million.[273] The co-operative managed to finance more than 50 per cent of its loan portfolio through internal resources.[274]

With their own co-operative capable of meeting their borrowing needs, poor families will no longer need to maintain their conventional borrowing relationships.

Thrift and credit co-operatives have been increasingly popular of late. A number of multipurpose and other specialised co-operatives have successfully integrated thrift and credit services into their programmes. There have been reports of the success of co-operative thrift and credit activities in such remote districts as Ramechap, Sindhuli and Dandeldhura. Sadly, there have also been reports of their being misused, especially in urban areas.

Thus, there is a need for promoting co-operative thrift and credit activities throughout the country, while checking pseudo-co-operatives. This may be done by way of discriminatory co-operative development policy. For instance, all co-operatives may be required to pay taxes at par with private businesses, so that there is no infiltration of non-co-operators into the co-operative movement. At the same time, co-operatives formed by poor families may be supported otherwise, in terms of co-operative education, development finance and extension services, among other things.

Micro credit services of such projects, programmes or institutions as the Small Farmer Development Project, the Production Credit for Rural Women Programme, the Female-headed Household Project, the Rural Development Bank and the Banking for the Poor Project are helpful, too. Often such credit services are linked to group savings activities. Besides, group savings and credit activities have been promoted by a number of non-governmental organisations under a wide variety of programmes. All such activities may be expanded as far as possible.

(b) Helping the people out of emergency

Self-help works well in normal times. When families face emergency, they need external help as well. Such help may be extended in many ways.

One way is 'food for work'. When there is food for work, poor families may work and get food just in case. They do not need to borrow food from rich families. Nor do they need to keep quiet about unfair practices for fear of starvation. But as of now, this programme has been run on a limited scale. Only a total of 200,000 families were expected to benefit by participating in the Food for Work Programme during the five years of the Ninth Plan.[275] As a result, there is no food for work everywhere, any time.

Similar in nature and different in scale is the emergency public employment programme. When tens of thousands of families are about to starve, they can be saved only by launching the emergency public employment programme on a massive scale. Food is perpetually deficient in 38 districts of our country. Worse still, even when food is available, poor families lack purchasing power. Given such a situation, emergency public employment programmes alone can help avert famines. As Sen writes:

> In the 1973 drought in Maharashtra in India, food production fell so sharply that the per capita food output was half that in sub-Saharan Africa. And yet there was no famine in Maharashtra (where five million people were employed in rapidly organized public projects), while there were very substantial famines in sub-Saharan Africa.[276]

Seldom have we talked about emergency public employment, however.

Food for work and emergency public employment programmes may be instrumental in developing rural Nepal as well. They may be implemented in different sectors. Housing is one such sector. Cannot we rebuild all dilapidated houses in Jumla, for instance, as part of our emergency public employment programme in the face of a food crisis there, so that people have food and shelter at the same time? While the limitations of the government are understandable, efforts may

be made to scale up food for work and emergency public employment programmes.

Another way to help the people out of emergency is health insurance. Just now, the Ministry of Health has made its new vision of health care public, where everybody will have health insurance. So far, only a passing reference has been made to health insurance. Ambitious as it is, I think that it is the right vision. 'Universalising primary health care must become the fundamental goal of health policy,' states Nepal Human Development Report 1998. 'All other objectives must be reduced to a secondary status.'[277]

Certainly this is going to take a long time to be realised, but we will be going to that direction. As we will be moving forward, we will also be freeing families from the fear of breaking their conventional borrowing relationships.

Equally important is the Community Health Programme, especially for extending reproductive health care services to far-off villages.

'In a sense, voters, too, favour extravagance,' said a political worker in India once. 'You cannot hope to win elections by taking two jeeps around when your rival has engaged 11 jeeps.'

Many of us make such comments in Nepal as well. 'The people here are like this'; 'the level of awareness is low among us'; and so on. That is not true, I believe. The reality is that 'the people here' are helpless. They lack alternatives. Ensured health care plus food security and financial services will enable families to re-find their role in their neighbourhood. No longer will a poor family 'respect' a family that has accumulated wealth through devious means. No longer will the people keep quiet when they are being looted by their 'leaders'. They will have the courage to speak truth. Needless to say, our society will be different when the masses will have the courage to speak truth.

Box 15: How Clean Is Our Government?

Functional areas	General indicators	Specific examples
Regulation	▪ Regularity in the supply of essential commodities	▪ Availability of fertilizers
	▪ Quality of public goods	▪ Air pollution in urban areas
Extension	▪ Behaviour of extension staff	▪ Availability and helpfulness
	▪ Access to institutional credit	▪ Discrimination in making loans
Certification	▪ Behaviour of certifying staff	▪ Personal attention and processing speed
	▪ Validity of certification	▪ Instances of false certification
Law and order	▪ Behaviour of security staff	▪ Respect for human rights
	▪ Trust in courts	▪ Perceived fairness of court verdicts
Infrastructures	▪ Quality of civil works	▪ Durability of motorways
	▪ Costs of public-sector power	▪ Costs of electricity

Conclusion

‘Shoot ’em all out in the open!’ ‘Hang ’em all at the *tundikhel*!’ We frequently hear such outcries over corruption. Corruption cannot be controlled emotionally, however. We need to fight corruption with the peace of our mind.

The problem lies in human beings, even though it can be exacerbated by other influences. The solution, too, has to be found in human beings and has to have effects on other influences as well.

As part of a people-centred solution, I have all along argued for reinstating trust, empowering the doer with dignity, authority and hope, and building the responsibility for checking corruption into the line – the normal democratic chain of control as well as the normal managerial line of command. This has several implications, not least the need for freeing the line of off-the-line surveillance.

However, as Chris Argyris says, ‘… despite all the best efforts that have gone into fostering empowerment, it remains very much like the emperor’s new clothes: we praise it loudly in public and ask ourselves privately why we can’t see it’.[278]

Argyris distinguishes between internal commitment, which comes largely from within, and external commitment, which may be thought of as contractual compliance.[279] Drawing an example from Germany, he explains how external commitment may overshadow internal commitment:

> When the Berlin Wall came down, a routine way of life for East German workers came to an end. Most workers had learned to survive by complying. For 40 years, most plants were run in accordance with the dictates of central planners. … As a result, East German workers over the years learned to define performance as doing the minimum of what was required of them.[280]

Perhaps the same is true of us. We, too, are apparently used to survive by complying. The command-and-control management for all these years has made us do so. No wonder, then, if enthusiastic leaders – political or administrative leaders – are disappointed initially.

The difficulty in changing an existing order is well known. Almost five centuries ago, Niccolò Machiavelli wrote that 'the innovator has for enemies all those who derived advantages from the old order of things, whilst those who expect to be benefited by the new institutions will be but lukewarm defenders'.[281]

Alternatively, it is the difficulty in changing an existing state of affairs that calls for leadership. Therefore, their steps should not stop there; one after another, they should be put forward.

'It has been my experience that many employees are willing to become more personally committed if management is really sincere, if the work allows it, and if the rewards reinforce it,' adds Argyris.[282] Other ways will lead us nowhere.

'Greater freedom enhances the ability of people to help themselves and also to influence the world', says Amartya Sen, 'and those matters are central to the process of development'.[283] Sen calls this the agency aspect of the individual:

> … [T]he role of a person as an "agent" is fundamentally distinct from (though not independent of) the role of the same person as a "patient". … Understanding the agency role is thus central to recognizing people as responsible persons: not only are we well or ill, but also we act or refuge to act, and can choose to act one way rather than another. [284]

The agency role is even more important in the case of public servants. To control is to limit their agency – the agency of a school teacher, the agency of an auxiliary health worker, the agency of an agricultural JTA or that of other extension workers, the agency of a VDC secretary and the agency of a police constable. Include all public officials who work at district

level or below to arrive at the total number of them. Our 'field staff' form the front-line of our administration, the interface between the government and the people. Together with local elected representatives, they are our 'government at the grass roots'.

Robert Galvin tells Motorola's sales force that 'they have all the authority of the chairman when they are with customers'.[285] A government parallel to that would be to tell these field-workers that they have all the authority of the Prime Minister when they are helping the poor people. And I think that our Prime Minister needs to tell them the same. This is because for all our talk about good governance, it depends mainly on them – their internal commitment, their agency. They are the champions of change, heroes of development.

'Optimism is immensely empowering,' observes Nepal Human Development Report 1998.[286] I believe that we need to be optimistic about these doers. We need to be optimistic about the people up the line, up to the Prime Minister. We need to trust them, liberate them and rid ourselves of the influence of a policing mentality. Rather than wasting our hard-acquired resources in checks, controls and costly overhead structures, we need to use them for creating normal working conditions, *inter alia*, fair compensation, judiciously triaged procedures and reasonably open career opportunities, where normal people do not breach trust and where those who do are quickly identified and conveniently brought to book.

Luther Gulick describes the New Public Administration as engaging in a missionary zeal, 'an inspired but sophisticated declaration of faith in a new humanity in a new society'.[287] Only with our declaration of faith in a new humanity will we have truly new public administration.

We also need to trust our newly regained democracy - allowing its processes to take place unhindered, relying on its power to fight corruption and recognising its forces to lead us to prosperity. Instead of tinkering with popular institutions of authority, we need to do everything possible to make sure that

our electoral process is reliably fair and our elective offices are widely visible.

I was brought up in a village. Playing around in bare feet, I frequently stepped on thorns. Fortunately, my mother knew all the tricks to take them out. Every time she grappled with one, she surely advised me to be careful. Yet she never prevented me from playing around. Corruption is also a thorny problem. We have to rid our government of it. But just as my mother never stopped me playing around and helped me grow, so, too, should we never stop our government learning and serving us better.

Abbreviations

ABB	Asea Brown Boveri
ACC	Air Combat Command
AES	Applied Energy Services
CPU	Central processing unit
DDC	District Development Committee
EIA	Environmental impact assessment
FN	Footnote
GDP	Gross domestic product
HR	Human resource
ICAC	Independent Commission against Corruption
ID	Identity
IG	Inspector-general
IT	Income tax
JTA	Junior technical assistant
MBA	Master of Business Administration
MBBS	Bachelor of Medicine and Bachelor of Surgery
MIT	Massachusetts Institute of Technology
MPA	Master of Public Administration
NGO	Non-governmental organisation
PC	Personal computer
PIN	Personal identity number
ROI	Return on investment
Rs	Rupee(s)
SFCL	Small Farmer Co-operative Limited
SLC	School Leaving Certificate
Specs	Specifications
USD	United States dollar
Usu	Usually
VAT	Value-added tax
VDC	Village Development Committee
VS	*Vikram Sambat*

Glossary of Nepali Words

Aadi	The beginning.
Aali	A boundary; an area.
Adda	A government office.
Arthashastra, also spelt arthasastra	The science of acquiring and protecting the Earth. Today, *arthashastra* means economics, 'the science of wealth'. But Kautilya's *Arthashastra* was meant to be a single treatise on politics, the science of acquiring and protecting the Earth.
Ashirbad	A blessing.
Baksheesh	A small sum of money given to somebody as a personal reward for their services; a tip.
Bandh	A general strike.
Bholi bholi bhandainma …	While saying [and assuring me of a decision] tomorrow and tomorrow …
Britti	In the *Lichchhavi* era, *jagir*.
Brityadhikrit	In the *Lichchhavi* era, a *jagirdar*.
Char pass	See p 138.
Chhadke	A surprise attendance check.
Chintan Manan	Reflection and appreciation.
Dal bhat	Rice with lentil soup; a nice meal.
Dandabihinata	A lack of order; a state where wrongs are not punished.
Dandasanhita	A penal code.
Dasturi	A sum of money or some goods given to government employees as part of a tradition, eg at a Custom Check-point; speed money.
Dharmabhakari	A traditional grain bank, created, managed and utilised by its members, usu families living in a community.
Dhikuri	A traditional mutual-aid fund created, managed and utilised by its members on a voluntary basis.

Dibya Upadesh	Noble teachings. In Nepal *Dibya Upadesh* generally refers to the noble instructions of King Prithvinarayan Shah the Great. Delivered in Nuwakot in December 1774, ie before his passing away on 10 January 1775, these instructions cover a wide range of issues involved in government and reflect the thinking of this far-sighted king and maker of modern Nepal. An English translation of *Dibya Upadesh* appears in L F Stiller, S J, Prithwinarayan Shah in the Light of *Dibya Upadesh* (Kathmandu: Himalayan Book Centre, 1968).
Ghus khane	Accepting a bribe; a bribe received by forcing the giver.
Gosti	In the *Lichchhavi* era, a community club; a g*uthi*. Today, the word *'gosti'* also means a symposium or a seminar.
Gram	A village; in the *Lichchhavi* era, an area with a settlement or many settlements, delineated for administrative purposes.
Guthi	A trust, usu a religious one. The word '*guthi*' derives from the word '*gosti'*.
Hakim	A superior, usu the head of an office.
Hakimchok	The *hakim*'s crossroads.
Jagir	See Box 4 on pages 43-44.
Jagirdar	A civil servant; in the past, a government employee possessing *jagir*.
Janajati	Ethnic communities; minority castes.
Jatra	A public, use religious, show.
Kavi	A poet.

Karyabahi or karbai	The process of bringing one to book; an anti-corruption action or a departmental action.
Kharidar	A position in the civil service lower in rank than the *naib subba*.
Khus khane	Accepting something out of the giver's happiness; *baksheesh*; a tip.
Kitabi Sawal	Administrative regulations.
Kula chaudhari	A person who is in charge of water channels.
Lichchhavikalka Abhilekh	Inscriptions of the *Lichchhavi* Era.
Maharaja	The title of the *Rana* Prime Minister.
Mahinabari	Monthly, usu unfair, payments.
Mandap	A stage; a stage where the bride and the bridegroom perform the ritual of marriage.
Muluki Sawal	Regulations of the land; regulations specifying administrative procedures.
Mukhiya	A position in the civil service lower in rank than the *kharidar*.
Nagarik Badapatra	The Citizen's Charter.
Naib subba or subba	A position in the civil service lower in rank than the section officer. The s*ubba* and the *naib subba* used to be different positions in the past, with the *subba* almost in the rank of the joint-secretary. But today, the *subba*'s position does not exist and the *naib subba* is informally called *subba*.
Namaskar or *namaste*	A word of welcome or goodbye said with respect, use by placing both hands together.
Nashihat	Advice; a note of punishment issued as advice.
Nayaka	A leader; a hero.
Nepal*ko Aitihasik Ruprekha*	A Historical Outline of Nepal.
Nepal*ko pahilo…*	The first … of Nepal.

Pajani	In the past, annual screening of government employees.
Pancha	A group of five (or more) people.
Panchali	*Pancha* + *aali*; the *panchas'* area; an assembly of the *pancha* responsible for administering a specified area in the *Lichchhavi* era; the *panchayat*.
Panchayat	See *panchali*.
Parichar	A position in the civil service; a peon or a messenger.
Parima or parma	A custom of sharing labour, use agricultural labour, among neighbours.
Pradhan	The president of a *panchali*.
Prashasan Sudhar Aayogko Pratibedan	The Report of the Administrative Reform Commission.
Puja	Worship.
Rastra sewaks	National servants. A legal definition of the term includes all those who hold a position of benefit in public life.
Sabhapatichok	The chairperson's crossroads.
Sahakari Digdarshan	A Manual on Co-operatives.
Sambandhit nikaya	Concerned or related agencies.
Shree Panch Badamaharajadhiraj	His Majesty King the Great.
Shreekalahabhimani	See p 20.
Shresta Pathashala	A school of records.
Sidiotola	The chief district officer's colony.
Taki, taki …	These words come from a local dialect in Bardiya and are often said by people while driving draft-animals.
Tala	In the *Lichchhavi* era, an area (perhaps a plain area) including many *grams* and delineated for administrative purposes.
Talaswami	In the *Lichchhavi* era, the master of a *tala*; the chief administrator of a *tala*.

Tappa	In the past, an area delineated for the purposes of fiscal administration in western and far-western Terai.
Tappa chaudhari	In the past, a functionary responsible for collecting land revenue in a specified area called *tappa*.
Terai	The plain area throughout southern Nepal.
Thar Ghar	See FN 64 to Chapter 1.
Tuin	A rope with a sliding device put across a river for people to cross the river.
Tundikhel	A large ground where soldiers parade; any large open ground.
Upajash kuti	A discredited hut.
Vamsavali	Genealogical writings.
Vikram Sambat	The *Vikram* era. The *Vikram* era is 56-57 years ahead of the Christian era.

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[33] Supra 28, p 103.
[34] Nye, op cit, p 47. Nye adds that the second part of the definition is taken from Edward C Banfield, Political Influence (Glencoe, III: Free Press, 1961).
[35] See Michael Johnston, 'The search for definitions: the vitality of politics and the issue of corruption', International Social Science Journal, **149**, 1996 [reprinted in Williams (ed), op cit, p 282].
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[38] Edward C Banfield, 'Corruption as a Feature of Governmental Organisation', Journal of Law and Economics, **XVIII**(3), 1975 [reprinted in Williams (ed), op cit, p 106].
[39] Ibid.
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[42] Black's Law Dictionary (Sixth edition (St Paul, Minn: West Publishing Co, 1990).
[43] A farmer can tempt a forester into committing an act of corruption, of course. But unless the forester is corrupt, the farmer will fail. Perhaps I should qualify this by saying that a common citizen cannot commit an act of corruption by himself.
[44] See Balchandra Sharma, Nepal*ko Aitihasik Ruprekha* (Third edition (Varanasi: Krishna Kumari Devi, 1976 (2033 VS), pp 72-73.
[45] Mahesh C Regmi, Readings in Nepali Economic History (Varanasi: Kishor Vidya Niketan, 1979), pp 3-4.
[46] See Sharma, op cit, p 82.
[47] See ibid, p 80.
[48] Jawaharlal Nehru, Glimpses of World History (New Delhi: Jawaharlal Nehru Memorial Fund, 1982, first published 1934-35 by Kitabistan, Allahabad), p 26.
[49] Dhanabajra Bajracharya, *Lichchhavikalka Abhilekh* (Second edition (Kathmandu: Nepal and Asian Research Centre, Tribhuvan University, 1996 (2053 VS), p 327.
[50] See ibid, pp 326-31.
[51] See ibid, pp 282-89.
[52] See ibid, pp 274-77.
[53] For instance, the inscription of Bhimsensthan of Patan of Shivadeva I and Amshuverma and the inscription of Deupatan Kasaintol of Narendradeva contain such words. See ibid, pp 244-45, 474-76.
[54] See Sharma, op cit, pp 126-27.
[55] Historians are divided in their opinion about the genealogy of Amshuverma, about his relation with then King Shivadeva I and also about his assumption of power. Many subscribe to the theory that Amshuverma was not *Lichchhavi* himself, that he was a relation (a nephew or a son-in-law) of King Shivadeva I and that he assumed power, including that of a sovereign ruler, as conferred on him by King Shivadeva I, who apparently abdicated later. For details, see Bajracharya, op cit, pp 292-96; Sharma, op cit, pp 86-93.
[56] See Bajracharya, op cit, pp 333-35.
[57] See ibid, pp 331-33.
[58] Sharma, op cit, p 97.
[59] See Bajracharya, op cit, pp 104-5, 297-99; Nehru, op cit, p 132.

[60] See Bajracharya, op cit, pp 3-4; Nehru, op cit, pp 71-72. Kautilya also said, 'The king should enforce discipline on slaves … .' See Kautilya, op cit, p 57.
[61] See Bajracharya, op cit, pp 6-7, 174.
[62] See Sharma, op cit, p 212.
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[65] See Bajracharya, op cit, pp 442-47, 255.
[66] Naraharinath (ed), op cit, p 117.
[67] Sharma, op cit, p 128.
[68] Ibid, p 129.
[69] See Naraharinath (ed), op cit, p 117.
[70] There are some differences of opinion among historians about the commencement of the modern era in the history of Nepal. For details, see Regmi, supra 45, pp 7-9.
[71] See Sharma, op cit, p 352.
[72] Ibid.
[73] Nepal*ko Pahilo* Budget, Kantipur Kosheli, 21 July 2001.
[74] Sharma, op cit, p 365.
[75] Ibid.
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[171] Ibid.
[172] Quoted in Luthans, op cit, pp 40-41.
[173] See Henry, op cit, pp 14-16.
[174] Ibid, p 16.

[175] Vice President Al Gore, Common Sense Government: Works Better and Costs Less (New York: Random House, 1995), p 143.
[176] See Osborne and Gaebler, op cit, p 49.
[177] See ibid, pp 49-75.
[178] Ibid, p 69.
[179] We may recall here that a betrayal of trust is either crime (in the case of social trust) or corruption (in the case of organisational trust). See Chapter 1, Box 2.
[180] Michael Hammer and James Champy, Reengineering the Corporation: A Manifesto for Business Revolution (London: Nicholas Brealey Publishing, 1994), pp 136-43.
[181] Quoted in Tom Peters, The Tom Peters Seminar: Crazy Times Call for Crazy Organizations (London: Macmillan, 1994), p 80.
[182] Michael L Dertouzos, Richard K Lester, Robert M Solow and the MIT Commission on Industrial Productivity, Made in America: Regaining the Productive Edge (New York: HarperPerennial, 1990, first published 1989 by Cambridge, Mass: MIT Press), p 131.
[183] Hammer and Champy, op cit, p 55.
[184] Morgan, op cit, p 75.
[185] See ibid, pp 100-15.
[186] Ibid, p 114.
[187] Gore, op cit, pp 53-54.
[188] Kautilya, The Kautiliya *Arthasastra*, English translation (Second edition) R P Kangle, Part II (Delhi: Motilal Banarsidass Publishers, second edition first published 1972 by Bombay University), p 10.
[189] Quoted in Lubin Doe, 'Civil service reform in the countries of the West African Monetary Union', International Social Science Journal, **155**, 1998, pp 125-43.
[190] Since corruption costs beyond corruption, the real cost of corruption is hardly known. The cost of corruption here means only the notional cost of corruption.
[191] Bennis and Nanus, op cit, p 3.
[192] See Prachanda Pradhan, Public Administration in Nepal (Kathmandu: Curriculum Development Centre, Tribhuvan University, 1976), p 1.
[193] See ibid.
[194] See Govind Ram Agrawal, Management in Nepal (Kathmandu: Curriculum Development Centre, Tribhuvan University, 1980), p 276.
[195] See Pradhan, op cit, p 3.
[196] See ibid, p 4.
[197] See Agrawal, op cit, p 276; Pradhan, op cit, pp 8-12.
[198] Self, op cit, p 175.
[199] Kenneth R Andrews, The Concept of Corporate Strategy (Homewood III: Irwin, 1971), p 12.

[200] See Amitai Etzioni, modern organizations (New Delhi: Prentice-Hall of India, 1999, first published 1964 by Prentice-Hall USA), pp 77-93.
[201] Ibid, p 79.
[202] Ibid, p 83.
[203] Ibid, p 90.
[204] See Tom Peters, Reinventing Work: the professional service firm 50 (New York: Alfred A Knopf, 1999).
[205] Dertouzos et al, op cit, p 3.
[206] Ibid, p 159.
[207] Ibid, p 162.
[208] Ibid, p 158.
[209] Katz defined these three types of skill long ago. Even today, management is generally considered to have these three major dimensions. See Handy, supra 17, p 124; Luthans, op cit, p 8.
[210] See Self, op cit, p 215.
[211] Bennis and Nanus, op cit, p 20. Many other writers do not see this difference, however. For instance, Andrews says, 'Management itself may be regarded as leadership in the informed, planned, purposeful conduct of complex organized activity.' See Andrews, op cit, p 1.
[212] Ibid.
[213] John P Kotter, A Force for Change: How Leadership Differs from Management (New York: The Free Press, 1990), pp 7-8.
[214] See Bennis and Nanus, op cit, pp 19-20; Kotter, op cit, p 10.
[215] Self, op cit, p 297.
[216] Quoted in Handy, supra 17, p 20.
[217] Hammer and Champy, op cit, p 74.
[218] Aguayo, op cit, p 236.
[219] Agrawal, op cit, p 34.
[220] Michael E Porter, Hirotaka Takeuchi and Mariko Sakakibara, Can Japan Compete? (London: MacMillan Press, 2000), p 106.
[221] See ibid, pp 106-7; 155-58.
[222] Ibid, p 106.
[223] Ken Afful, Management and Organisational Behaviour: Concepts and Practices for Managers and Management Students in the South (Kathmandu: Ekta Books, 2000), p 394.
[224] Schein, op cit, p 12.
[225] Ibid, p 13.
[226] Ibid, p 5.
[227] For more on these, see ibid, pp 228-53.
[228] See John Case, The Open-Book Experience: Lessons from Over 100 Companies Who Successfully Transformed Themselves (Massachusetts: Perseus Books, 1998), pp 2-4.
[229] Ibid, p 84.

[230] Ibid.
[231] Ibid.
[232] See Louis M Seagull, 'Whistleblowing and Corruption Control: The GE Case', Crime, Law and Social Change, **22**(4), 1995 [reprinted in Williams and Doig (eds), op cit, p 600].
[233] Ibid.
[234] For more on this, see David Osborne and Peter Plastrik, Banishing Bureaucracy: The Five Strategies for Reinventing Government (New York: Penguin Putnam, 1997), pp 32-36.
[235] W Paatii Ofosu-Amaah, Raj Soopramanien and Kishor Uprety, Combating Corruption: A Comparative Review of Selected Legal Aspects of State Practice and Major International Initiatives (Washington, D C: The World Bank, 1999), p 9.
[236] Ibid.
[237] Ibid, p 11.
[238] Ibid, pp 10-11.
[239] Lucinda A Low, Andrea K Bjorklund and Kathryn Cameron Atkinson, 'The Inter-American Convention Against Corruption: A Comparison With the United States Foreign Corrupt Practices Act', Virginia Journal of International Law, **38** (243), 1998 [reprinted in Williams and Doig, op cit, pp 377-426].
[240] Ibid, p 383.
[241] Ibid, pp 415-16.
[242] Ibid, p 418.
[243] Ibid.
[244] The World Book Encyclopedia (International) Volume 14) Chicago: World Book, 1996), p 450.
[245] Black's Law Dictionary (Sixth edition (St Paul, Minn: West Publishing Co, 1990).
[246] The Modernising Government White Paper and Related Documentation (http: // www.cabinet-office.gov.uk/moderngov/1999/whitepaper/).
[247] Quoted in ibid.
[248] Osborne and Plastrik, op cit, p 62.
[249] Quoted in Gunnar Myrdal, Asian Drama: An Inquiry Into the Poverty of Nations Volume II (New Delhi: Kalyani Publishers, 1982, first published 1968), p 953.
[250] See Jeffrey Pfeffer, 'Six Dangerous Myths About Pay', Harvard Business Review, May-June 1998.
[251] Ibid.
[252] Doe, op cit, pp 125-43.
[253] Ibid.
[254] The World Bank, World Development Report 1997: The State in a Changing World (New York: Oxford University Press), p 95.

[255] Shahrzad Sedigh and Augustine Ruzindana, 'The Fight against Corruption in Uganda' in Rick Stapenhurst and Sahr J Kpundeh (eds), Curbing Corruption: Toward a Model for Building National Integrity (Washington, D C: The World Bank, 1999), p 191.
[256] Hammel and Prahalad, op cit, p 17.
[257] Foreword to the Modernising Government White Paper (supra 138).
[258] Senge, op cit, p 107.
[259] Peters, supra 73, pp 36-37.
[260] Handy, supra 17, p 73.
[261] See ibid, p 109.
[262] See ibid, pp 108-9.
[263] See ibid, p 72.
[264] Ibid, p 76.
[265] Ibid.
[266] See ibid.
[267] Ghoshal and Bartlett, op cit, pp 285-86.
[268] For instance, depending upon their nature of work, district offices have either assistant secretaries or under-secretaries as their heads and either *mukhiyas* or *kharidars* as their assisting staff. There is nothing new about it. We have already tried it in many cases. We will have to do it more systematically in future.
[269] See Kleiner, op cit, pp 130-31.
[270] Ofosu-Amaah, Soopramanien and Uprety, op cit, p 26.
[271] *Guthis* also run schools or provide fellowships for students. But such examples are rare.
[272] For more on this and other aspects of the co-operative movement, see *Sahakari Digdarshan* (Kathmandu: National Co-operative Development Board, 2000 (2057 VS).
[273] See Ulrich Wehnert and Roshan Shakya, Are Small Farmer Co-operatives Ltd Viable Microfinance Organisations? A Comprehensive Financial Analysis of 33 SFCLS (Kathmandu: Rural Finance Nepal, 2001), p 9.
[274] Ibid.
[275] The Ninth Plan (1997-2002 (Unofficial English translation (Kathmandu: National Planning Commission), p 249.
[276] Sen, op cit, p 180.
[277] Nepal Human Development Report 1998 (Kathmandu: Nepal South Asia Centre), p v.
[278] Chris Argyris, 'Empowerment: The Emperor's New Clothes', Harvard Business Review, May-June 1998.
[279] See ibid.
[280] Ibid.
[281] Niccolò Machiavelli, The Prince, English translation C E Detmold (Hertfordshire: Wordsworth Editions, 1997), p 21.

[282] Ibid.
[283] Amartya Sen, Development as Freedom (New Delhi: Oxford University Press, 2000), p 18.
[284] Ibid, p 190.
[285] Quoted in John Naisbitt, Global Paradox: The Bigger the World Economy, the More Powerful Its Smallest Players (London: Nicholas Brealey Publishing, 1995, first published 1994), p 15.
[286] Nepal Human Developent Report 1998 (Kathmandu: Nepal South Asia Centre), p xvi.
[287] Quoted in Robert B Denhardt, Public Administration Theory: The State of the Discipline in Naomi B Lynn and Aaron Wildavsky (eds), Public Administration: The State of the Discipline (New Delhi: Affiliated East-West Press, 1992, first published 1990 by Chatham House Publishers, USA), p 61.